

## **DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS FOR FISCAL YEAR 2006**

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**WEDNESDAY, MARCH 2, 2005**

**U.S. SENATE,  
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,  
*Washington, DC.***

The subcommittee met at 10:34 a.m., in room SD-138, Dirksen Senate Office Building, Hon. Thad Cochran presiding.  
Present: Senators Cochran, Byrd, and Leahy.

### **DEPARTMENT OF HOMELAND SECURITY**

#### **STATEMENTS OF:**

**MICHAEL J. GARCIA, ASSISTANT SECRETARY, IMMIGRATION AND  
CUSTOMS ENFORCEMENT**

**ROBERT C. BONNER, COMMISSIONER, CUSTOMS AND BORDER  
PROTECTION**

**EDUARDO AGUIRRE, JR., DIRECTOR, U.S. CITIZENSHIP AND IMMI-  
GRATION SERVICES**

#### **STATEMENT OF SENATOR THAD COCHRAN**

Senator COCHRAN. The hearing will please come to order. Today we begin our committee's review of the fiscal year 2006 budget request for the Department of Homeland Security. We will consider specifically the request for programs and activities of U.S. Citizenship and Immigration Services, Customs and Border Protection, and Immigration and Customs Enforcement.

I am pleased to welcome the Director of U.S. Citizenship and Immigration Services, Eduardo Aguirre; the Commissioner of Customs and Border Protection, Robert Bonner; and the Assistant Secretary of Immigration and Customs Enforcement, Michael Garcia.

Our committee will work with you to help ensure that we provide the funds necessary for your agencies to carry out their responsibilities and missions. For fiscal year 2006, the President's budget requests \$12.9 billion to fund the organizations appearing before us today. This includes mandatory and discretionary appropriations, user fee collections, and trust funds.

We thank each of you for submitting to the committee copies of your statements in advance. These will be made a part of the record and we invite you to make any comments you think will be helpful to the committee's understanding of the budget request.

Before hearing from the witnesses, I am pleased to yield to Senator Leahy or other Senators who may wish to make opening statements. Senator Leahy.

## STATEMENT OF SENATOR PATRICK J. LEAHY

Senator LEAHY. Thank you, Mr. Chairman.

I think these three agencies before us have the duty of keeping our Nation safe, but also keeping our historic commitment to legal immigration. I know I have to think about the fact that my grandparents came, my maternal grandparents, came to this country not speaking any English. If they had not been here, their grandson would not be here, and how proud and how happy they were to come.

I remember talking with my grandparents as a child and how much it meant to them to be the first generations of Americans. It has left a mark in my own mind. You look around this room, look around anywhere else, look at your own backgrounds, and we know that we are a Nation of immigrants. We have to keep being able to do that.

## BUDGET SHORTFALLS AND INCREASED STAFFING FOR THE BORDER PATROL

When we held hearings on these three agencies last year, Mr. Chairman, they were facing substantial budget shortfalls. They had imposed hiring freezes. I want to know where we stand today on these issues. I am concerned that the administration is ignoring Congress's clear and consistent call, call from both Republicans and Democrats, for substantial increases in staffing for the Border Patrol. The Border Patrol's presence on our northern border—and I want to remind everybody we have a northern border as well as a southern border; I live an hour's drive from it—it was minimal before the September 11th attacks. I think we had something like 300 agents stretched over 4,000 miles of border. There is no other place in the world similar to that.

I authored a provision in the Patriot Act to triple that number. It has been achieved. A lot more needs to be done. The President signed the Intelligence Reform and Terrorism Prevention Act of 2004. That mandated increasing at least 2,000 Border Patrol agents for fiscal year 2006, 20 percent of them for the northern border. But that is the good news and the President did sign that bill for the 2,000, but his budget provides only enough funding for 210. So he signed the bill with great fanfare for 2,000 and put the budget in for 10 percent of it. And it appears none of them go to the northern border.

So I hope Mr. Bonner will explain why the administration is not heeding this Congressional mandate and whether he now believes it is time to declare mission accomplished for the job of protecting our northern border.

## LAW ENFORCEMENT SUPPORT CENTER

Assistant Secretary Garcia and I have spoken a number of times about the excellent work of the Law Enforcement Support Center. We have visited this. This is the place that stores information for State and local police. It provides immigration status and identities of aliens any time of the day or night, every day of the year.

FISCAL YEAR 2006 BUDGET REQUEST FOR CITIZENSHIP AND  
IMMIGRATION SERVICES

Of course, Mr. Aguirre, we talked before, I am concerned about the President's proposed budget for Citizenship and Immigration Services. It calls for a 50 percent cut in the amount of directly appropriated funds for CIS. At the same time the President says he will achieve his goal of reducing the average wait time for applicants for immigration benefits to 6 months.

He has asked the Congress to enact a guest worker program that is going to significantly increase the CIS workload. That is fine, we can increase it, but if the administration is cutting the manpower for this substantially, but wanting to add to the workload, I do not know how you ever get here.

H2B VISA PROGRAM

I hope—the last thing is I hope the CIS and the administration will support bipartisan efforts in Congress to increase the cap for the H2B visa program. The Department announced in January for the second straight year the statutory cap has been reached and that is causing tourism-related businesses across the country to go into justifiable panic and concern.

We have a bipartisan group of 16 colleagues introducing S. 352, the Save Our Small and Seasonal Business Act of 2005. It would allow aliens who obtained H2B visas in recent years to reenter under that program. I hope the administration would support it. It is a quick, easy, I think effective, cost effective way of handling this.

So thank you, Mr. Chairman. Those are some of the concerns I have. I thought I would express them here because I know we are going to have votes in between and I may have to go back and forth.

Senator COCHRAN. Thank you very much, Senator.  
Senator Byrd.

STATEMENT OF SENATOR ROBERT C. BYRD

Senator BYRD. Thank you, Mr. Chairman.

Excuse me, I am sorry.

Senator LEAHY. Any time you want.

Senator BYRD. Thank you.

Well, today, Mr. Commissioner and also Mr. Assistant Secretary and Director Aguirre, we hold the first hearing on the President's budget for the Department of Homeland Security. Chairman Cochran and I have worked together over the last 2 years to produce bipartisan legislation to fill critical gaps in the security of our homeland. I commend Chairman Thad Cochran for his excellent leadership of this subcommittee and of any other committee or subcommittee that he chairs. I know how well it is going to be run.

Today our witnesses will focus on issues related to border security, immigration, and trade. For the third year in a row, the President has submitted a budget for the Department of Homeland Security that ignores the stark reality of the resources needed to secure the homeland. The 9/11 Commission report concluded this:

"More than 500 million people annually cross U.S. borders at legal entry points, about 330 million of them non-citizens." What a flow of humanity. "Another 500,000 or more enter illegally without inspection across America's thousands of miles of land borders or remain in the country past the expiration of their permitted stay." Now, that was the commission talking.

The commission concluded that, quote: "Two systemic weaknesses came together in our border system's inability to contribute to an effective defense against the 9/11 attacks: one, a lack of well-developed counterterrorism measures as a part of border security; and two, an immigration system not able to deliver on its basic commitments, much less support counterterrorism."

#### INTELLIGENCE REFORM AND TERRORISM PREVENTION ACT

In response to the commission's findings, Congress enacted the Intelligence Reform and Terrorism Prevention Act. In a December 6, 2004, letter to the Congress urging final passage of that Act, President Bush stated, "I also believe the conference took an important step in strengthening our immigration laws by, among other items, increasing the number of Border Patrol agents and detention beds." Close of quotation.

As enacted, the Act authorizes the hiring of 2,000 new Border Patrol agents and 800 new ICE investigators and the funding of 8,000 new detention beds for illegal alien immigrants. Yet, when the President submitted his budget request months after sending that letter, virtually no new funds were requested for any of these activities.

At the same time, the President's own terrorism experts are extremely concerned about the threat posed by terrorists to our borders. In written testimony before the Senate Intelligence Committee on February 16, 2005, the Department's Deputy Secretary, Admiral James Loy, cited recently received information as the reason for his concern about the threat facing the Mexican border. He called it a "very serious situation" and added: "Several Al Qaeda leaders believe operatives can pay their way into the country through Mexico and also believe illegal entry is more advantageous than legal entry." How about that, "believe illegal entry is more advantageous than legal entry for operational security reasons."

#### FUNDING ISSUE

Despite this testimony, there is virtually no funding in the budget to increase our border security. In addition to having a strong deterrent to illegal immigration at the border, it is critically important for the Department to have the resources to enforce our immigration laws. Therefore, I am very troubled by the fact that 6 months into the fiscal year we have not received a supplemental request or a reprogramming proposal to address a shortfall in funding for immigration and customs enforcement.

Since last spring, the Congress has been ringing the alarm bell—ding-a-ling, ding-a-ling, ding-a-ling—that the Department's primary investigative arm, Immigration and Customs Enforcement, ICE, faced significant budget shortfalls. To partially address this problem, ICE last year instituted a hiring freeze, significantly reduced spending, and took other painful steps—bring on the aspi-

rin—to cope with the shortfall. There were even media reports that some apprehended illegal aliens were being released because ICE could not afford to cover the costs associated with holding these individuals.

Well, Congress stepped up to the plate. This man, Cochran, he is on the ball. Congress stepped up to the plate by providing ICE with \$193 million more for the current fiscal year than requested by the President. However, the hiring freeze and other spending restraints remain in place halfway through the new fiscal year. We are being warned by the Department that ICE faces a funding gap of nearly \$300 million for the rest of this year.

Has the President found any room in his \$81.9 billion supplemental spending request to address this gap? No. He is willing to request billions of dollars for foreign aid to build the most expensive U.S. embassy in the world in Baghdad. I do not plan to go there often. But he does not seem to be able to find the funds to hire and support the men and women fighting the war on terrorism here at home.

Today I sent a letter to Secretary Chertoff raising these issues, and I hope that he will work with the White House to send to the Congress a request that would implement the recommendations of the 9/11 Commission contained in the Intelligence Reform and Terrorism Prevention Act.

Thank you, Mr. Chairman. Thank you, Mr. Commissioner.

[The information follows:]

LETTER FROM SENATOR ROBERT C. BYRD

U.S. SENATE,  
Washington, DC, March 2, 2005.

Hon. MICHAEL CHERTOFF,  
*Secretary, Department of Homeland Security,*  
*Washington, DC.*

DEAR SECRETARY CHERTOFF: Congratulations are in order as you assume the task of leading the Department of Homeland Security, an immense and important burden. Sadly, the President, in his fiscal year 2006 budget request for the Department, has not made your task any easier.

For the third year in a row, the President has submitted a budget that ignores the stark reality of the steps needed to secure the homeland.

The 9/11 Commission report concluded that:

More than 500 million people annually cross U.S. borders at legal entry points, about 330 million of them noncitizens. Another 500,000 or more enter illegally without inspection across America's thousands of miles of land borders or remain in the country past the expiration of their permitted stay. The challenge for national security in an age of terrorism is to prevent the very few people who may pose overwhelming risks from entering or remaining in the United States undetected.

Our investigation showed that two systemic weaknesses came together in our border system's inability to contribute to an effective defense against the 9/11 attacks: a lack of well-developed counterterrorism measures as a part of border security and an immigration system not able to deliver on its basic commitments, much less support counterterrorism.

In response to the Commission's findings, Congress enacted the Intelligence Reform and Terrorism Prevention Act. In his December 6, 2004, letter to Congress urging final passage of that Act, President Bush stated, "I also believe the Conference took an important step in strengthening our immigration laws by, among other items, increasing the number of border patrol agents and detention beds." As enacted, the Act authorizes the hiring of 2,000 new Border Patrol agents and 800 new ICE investigators, and the funding of 8,000 new detention beds for illegal aliens immigration. The President's letter called that "an important step." Yet that letter appears to be another empty rhetorical gesture. When the President submitted his

budget request 2 months after sending that letter, virtually no new funds were requested for any of these activities.

At the same time, the President's own terrorism experts are extremely concerned about the threat terrorists pose to our borders. In written testimony before the Senate Intelligence Committee on February 16, 2005, the Department's Deputy Secretary, Admiral James Loy cited recently received information as the reason for his concern about the threat facing the Mexican border. He called it a "very serious situation" and added, "several Al Qaeda leaders believe operatives can pay their way into the country through Mexico and also believe illegal entry is more advantageous than legal entry for operational security reasons."

Mr. Secretary, I know that this budget was completed prior to your coming onboard. I strongly encourage you to work with the White House to formally request additional resources to implement the Intelligence Reform and Terrorism Prevention Act authorization enacted to respond to the recommendations of the 9/11 Commission.

In addition to having a strong deterrent to illegal immigration at the border, it is critically important for the Department to have the resources to enforce our immigration laws. Therefore, I am very troubled by the fact that, 6 months into the fiscal year, we have not received a supplemental request or reprogramming proposal to address a shortfall in funding for Immigration and Customs Enforcement. Since last spring, the Congress has been ringing the alarm bells that the Department's primary investigative arm, Immigration and Customs Enforcement (ICE), faced significant budget shortfalls. To partially address this problem, ICE last year instituted a hiring freeze, significantly reduced spending, and took other painful steps to cope with the shortfall. There were even media reports that some apprehended illegal aliens were being released because ICE could not afford to cover the costs associated with holding these individuals.

Congress stepped up to the plate by providing ICE with \$193 million more for the current fiscal year than requested by the President. However, the hiring freeze and other spending restraints remain in place halfway through the new fiscal year. We are being warned by the Department that ICE faces a funding gap of nearly \$300 million for the rest of this year. Has the President found any room in his \$81 billion supplemental spending request to address this gap? No. He is willing to add to the deficit to provide hundreds of millions of dollars to build the most expensive U.S. embassy in the world in Baghdad, but he does not seem to be able to find the funds to hire and support the men and women fighting the war on terrorism here at home. To them, he suggests they carpool to work.

Mr. Secretary, you really have your work cut out for you. Our repeated entreaties to the President and his representatives to provide the resources to meet these threats fall on deaf ears. I know that you will do all that you can to get this Administration to put its money where its rhetoric is. I wish for you success.

With kind regards, I am,

Sincerely yours,

ROBERT C. BYRD,  
*U.S. Senator.*

Senator COCHRAN. Thank you, Senator Byrd.

#### STATUS OF SECURITY OF THE UNITED STATES 2 YEARS AFTER THE ESTABLISHMENT OF THE DEPARTMENT OF HOMELAND SECURITY

I am going to ask our witnesses, in view of the fact that it has been almost exactly 2 years—March 1, 2005, actually would have been the second anniversary of the establishment of the Department of Homeland Security—in your estimation from what you know as administrators of these important agencies at the Department, are we safer now 2 years later after the Department of Homeland Security has been created than we were 2 years ago?

Mr. Garcia, would you like to start?

Mr. GARCIA. Thank you very much, Mr. Chairman. That is a question I often hear in many different forms, and everybody brings I think their own perspective.

Senator COCHRAN. I am going to ask each one to answer that before you proceed with your statements. Tell us what you think?

## ICE RESPONSE

Mr. GARCIA. I think we are safer, yes, and I bring perspective I think that is somewhat unique to that answer. I was a prosecutor in New York in the 1990s. I prosecuted many of the terrorism cases before 9/11 and I saw terrible exploitation of our immigration systems and our border security in those cases. Now, as part of the Homeland Security Department, I am a piece of the Government's response to those attacks in a Department that was created to address the vulnerabilities that were exposed by the 9/11 attacks.

From that vantage point, I can clearly say that we are safer, and I see evidence of that, Mr. Chairman, every day. I will speak mostly about the ICE contributions here and how my agency has responded with creativity, using these new combined authorities that we have been given in ICE. You look at the systems and we have created—and I think Senator Leahy and Senator Byrd may have mentioned—overstays and how there was no tracking. We have created a Compliance Enforcement Unit that sends out thousands of prioritized leads to look at deterrent effect, to look at enforcing our immigration rules and bringing integrity to the system as a whole.

We work very hard in benefits fraud with Director Aguirre's folks to close those vulnerabilities that were exploited in the past. So we are improving the integrity of the system.

Senator COCHRAN. Let me ask Mr. Bonner for his reaction to that question before you proceed with your full statement.

## CBP RESPONSE

Mr. BONNER. Yes, thank you, Mr. Chairman. First of all, yes, America is absolutely unquestionably safer now than it was before the creation of the Department of Homeland Security on March 1, 2003. Our borders are more secure now than they were before 2001—excuse me, March 1, 2003. Part of that is that one of the truly big and important ideas of the Department of Homeland Security was to create one front-line border agency for our government that combined at our front line all of Customs' powers and personnel, Immigration powers and personnel, agriculture protection, and most importantly anti-terrorism as a focus and a priority mission.

So as a result of that one step alone, unifying our border agencies, whereas before March 1, 2003, they had literally been fragmented at our borders, at our ports of entry, among four different agencies of government reporting to three different Departments, it is now one front-line border agency, that is Customs and Border Protection, within the Department of Homeland Security, with a priority mission which is nothing less than keeping terrorists and terrorist weapons out of our country.

So are we totally safe? No, but we are safer and more secure because our borders are more secure.

Senator COCHRAN. Mr. Aguirre.

## USCIS RESPONSE

Mr. AGUIRRE. Mr. Chairman, as the Director of the agency that is responsible for administering immigration services, I say unquestionably we are safer from the vantage point in which I sit. We

process 6 to 7 million applications a year and we have implemented some national security components and fraud deterrent components that were simply not there 2 or 3 years ago. Therefore I think we have tightened the filter, if you will, to determine those who may do us harm or who wish to take advantage of our good nature. I think we are much better off.

There is no finish line to this effort, but I think we are far, far beyond where we were a couple years ago.

Senator COCHRAN. Thank you very much.

Now you may proceed with your opening statements. Mr. Garcia?

#### STATEMENT OF MICHAEL GARCIA

Mr. GARCIA. Mr. Chairman, Senator Byrd, Senator Leahy, it is my pleasure to be with you today to discuss the President's fiscal year 2006 budget request for U.S. Immigration and Customs Enforcement, or ICE, the largest investigative arm of the Department of Homeland Security. The \$4.36 billion request underscores the vital role that ICE plays in the Department's mission of ensuring the security of the American people.

In order to provide a better understanding of the President's 2006 budget request for ICE, I would like to first provide you with the context in which the request is made. Specifically, I would like to share with you a few highlights of significant ICE achievements as well as some of the challenges we have faced.

#### SIGNIFICANT ICE ACHIEVEMENTS

ICE removed a record number, 160,000, illegal aliens from the United States in 2004. More than half of those were criminal aliens. We also arrested a record number of fugitive aliens. In fact, that was an increase of more than 100 percent.

ICE conducted 7,600 money-laundering and other financial investigations. ICE agents conducted more than 2,500 investigations into illegal exports that would have sent sensitive technology and weapons components to Iran, Iraq, China, and other nations. ICE arrested more than 5,000 sexual predators since Operation Predator was launched and have removed almost half of them from the United States. ICE agents also made the first 11 arrests for child sex tourism, targeting U.S. citizens who attempt to exploit children overseas.

ICE arrested more than 1,600 human smugglers and ICE's Federal Protective Service officers made more than 4,000 arrests, a nearly 60 percent increase over the previous year. ICE Federal Air Marshals logged millions of miles on tens of thousands of flights and Air Marshals have completed advanced training, an important benchmark to ensure professionalism and peak performance.

Senator Leahy mentioned the Law Enforcement Support Center in Vermont. That Center received more than 600,000 inquiries from Federal, State, and local law enforcement officials last fiscal year, a 12 percent increase over the year before. 15,000 detainees with police agencies nationwide on aliens were lodged from Vermont alone.

I could continue with many, many additional examples of achievements that ICE's employees have made. I would like to note that ICE's accomplishments over the last 2 years, which I believe

are unprecedented in law enforcement, were brought about despite significant challenges. In addition to the challenges faced in creating a new law enforcement agency, ICE has faced severe budget issues related to resource allocations. During the organization of the new Department, the budgets for component agencies, including those for overhead, information technology support, legal support, and other administrative functions, were broken apart in ways that were not entirely consistent. As a result, in some cases ICE was paying for services when the funds for those services had been allocated to other agencies.

#### BUDGET ISSUES

When we realized the budget issues that would arise from these allocation errors, we took swift action. ICE placed a freeze on new hires. We limited expenditures to those deemed mission essential and we moved to set clear priorities for funding. We also worked with the Department to undertake a budget review to determine what money was appropriately due to ICE in return for shared services.

These measures got results. Diligent and conscientious efforts on the part of our employees and field management helped us to realize tens of millions of dollars in short-term savings during fiscal year 2004. In addition, ICE identified and recouped more than \$500 million from other agencies in the second half of 2004. ICE also bought services from other DHS components as part of the shared services concept, such as human resources, logistics, and fleet management.

We are also in the process of systematically improving financial management throughout the entire agency. Some changes have been implemented and we expect to implement additional improvement in the coming months. These steps have been further outlined in a letter recently submitted to this committee.

#### COMMUNICATION WITH ICE EMPLOYEES

While this has been a challenging time for ICE, we have made every effort to communicate the facts to our employees at every opportunity through such measures as town hall meetings, broadcast messages to all employees, and visits by myself and other senior members of the agency's leadership to all of our field offices.

Over the past 2 years, ICE employees have refused to be defined by our challenges, but rather we have been defined by our achievements, which represent the true story of our agency. Our accomplishments represent the abiding commitment of all ICE employees to meeting these challenges head-on and accomplishing the critical mission with which we are charged.

#### FISCAL YEAR 2006 BUDGET REQUEST

The proposed 2006 budget builds on the foundation of our accomplishments while addressing many of the challenges outlined above. The President's 2006 budget request seeks more than \$4.36 billion for ICE, which represents an increase of more than 13 percent over fiscal year 2005. I would like to briefly address these enhancements.

#### DETENTION AND REMOVAL

The President's 2006 budget proposal request seeks \$176 million in enhancements for Detention and Removal operations. These enhancements will be used to fund detention bed space and management, Alternatives to Detention, Fugitive Operations, the Institutional Removal Program and interior repatriation. This funding will help ICE to continue to build on the vigorous enforcement efforts we have developed in the last 2 years.

#### INVESTIGATIONS AND INTELLIGENCE

The President's budget also seeks \$171 million in enhancements for ICE investigations and intelligence. Specifically, the budget will replace funding for Organized Crime Drug Enforcement Task Force activities. This enhancement requests no additional positions or money, but proposes that 346 positions currently on board be paid by direct appropriation instead of reimbursement from DOJ. In addition to a base increase, the enhancement allows for maintenance of Visa Security operations initiated in 2005 and support for one additional Visa Security Unit overseas. It funds 143 positions and training to successfully implement a worksite enforcement component for the proposed temporary worker program.

#### FEDERAL AIR MARSHALS SERVICE

We are also seeking enhancements to increase staffing for the Federal Air Marshal Service, funding for additional attorneys required to improve the ability of ICE's legal program to complete matters in Immigration Court, and money for Department-wide secure classified and computer to computer connectivity.

#### OVERVIEW OF ICE FISCAL YEAR 2006 BUDGET REQUEST

The President's 2006 budget request for ICE is a solid step forward for this agency and ICE is dedicated to protecting the homeland by enforcing immigration and customs laws, restoring integrity to the immigration system, as we discussed before, and ensuring the sanctity of our financial and trade systems. We protect Federal property and we ensure the security in our civil aviation.

That is a broad and diverse mission, but the men and women of ICE are dedicated to building this agency into a model for law enforcement in the 21st century. The 2006 budget request provides us with the resources that will make this goal a reality as we strive to secure the American homeland and protect the American people.

#### PREPARED STATEMENT

I would like to thank you, Mr. Chairman, Senator Byrd, Senator Leahy, for the opportunity to testify before you today. I look forward to answering any questions you may have.

[The statement follows:]

#### PREPARED STATEMENT OF MICHAEL J. GARCIA

#### INTRODUCTION

Mr. Chairman, Senator Byrd, and distinguished Members of the Subcommittee. It is my pleasure to be with you today to discuss the President's fiscal year 2006

budget request for U.S. Immigration and Customs Enforcement (ICE), the largest investigative arm of the Department of Homeland Security (DHS). This \$4.36 billion request underscores the vital role that ICE plays in the Department's mission of ensuring the security of the American people.

By integrating these various components in a single agency, ICE is able to more effectively meet the threats of the post-9/11 world, wherever these threats may arise—across our borders, within the Nation's interior, in our financial systems, at Federal facilities nationwide, in cyberspace, or civil aviation.

With ICE's broad authorities and expertise, we are prepared to counter the threats posed by criminal and terrorist organizations in ways not possible before the creation of the Department of Homeland Security.

#### REVIEW OF ICE ACCOMPLISHMENTS

In order to provide a better understanding of the President's fiscal year 2006 budget request for ICE, I would first like to provide you with the context in which the request is made. Specifically, I would like to share with you a few highlights of significant ICE achievements as well as some of the challenges we have faced.

—*Prioritizing Removals of Criminal and Fugitive Aliens.*—As part of our mission to restore integrity to the Nation's immigration system, the Office of Detention and Removal Operations (DRO) removed a record number of illegal aliens from the United States, posting approximately 160,200 such removals. More than half of those were criminal aliens. 7,200 fugitive aliens were removed last fiscal year—an increase of 112 percent over the previous year.

—*Protecting U.S. Financial and Trade Systems.*—The ICE Office of Investigations conducted 7,670 money laundering and other financial investigations in fiscal year 2004, resulting in more than 1,368 arrests, 895 indictments and the seizure of more than \$202 million. These achievements stem from ICE's Cornerstone initiative, in which we direct our expertise in financial, trade, and intellectual property investigations toward shutting down the schemes that criminal or terrorist organizations use to earn, move, and store their assets.

—*Checking Illegal Flows of Weapons and Sensitive Technology.*—ICE agents conducted more than 2,500 investigations into the illegal export of U.S. arms and technology in fiscal year 2004. These investigations protect national security by keeping sensitive technologies and weapons—whether it's missile components or night vision technology, laser scopes for military rifles or sensitive software—out of the hands of our Nation's adversary. In the last year, ICE investigated export violations that would have sent sensitive technology and weapons components to Iran, Iraq, China, and other nations. These investigations not only contribute to the security of the United States, but they serve to enhance the security of our troops and allies around the globe as well.

—*Protecting Children from Sexual Exploitation.*—Under Operation Predator, ICE arrested more than 4,900 sexual predators since the program was launched in 2003. We have ensured that 2,100 of those predators were removed from the United States. ICE agents also made the first 11 arrests for child sex tourism, targeting U.S. citizens who attempt to exploit children overseas under the PROTECT Act. Leads developed out of ICE investigations into online child pornography have been provided to foreign law enforcement authorities through ICE's 54 International Attaché offices. These leads have led to the arrest of approximately 850 child pornography subscribers overseas. ICE Attachés also provided expertise and support to their law enforcement counterparts in areas ravaged by the tsunami waves in southeast Asia in December, to ensure that children were not victimized by sexual predators or trafficking networks.

—*Targeting Human Smuggling and Trafficking.*—Another of ICE's top priorities is to dismantle criminal organizations that smuggle and traffic human beings for profit. In fiscal year 2004, ICE arrested more than 1,630 human smugglers. Operation ICE Storm, an initiative we launched in 2003 to target violent human smuggling networks in Arizona, has brought charges against more than 300 defendants and resulted in the seizure of more than \$7 million. This unprecedented seizure of alien smuggling proceeds is a direct result of the combination of our immigration and customs authorities (particularly customs financial crimes expertise). Law enforcement authorities in Arizona have credited Operation ICE Storm with a dramatic decrease in homicides and other violent crime in the Phoenix metropolitan area.

—*Improving Security at Federal Facilities.*—ICE's Federal Protective Service (FPS) made 4,426 arrests in fiscal year 2004—a 58 percent increase over the previous fiscal year. In addition, FPS officers prevented nearly 550,000 prohibited items and weapons from being carried into Federal facilities—a fourfold in-

crease over the previous year. FPS officers also responded to 430 bomb threats and more than 875 calls about suspicious packages and other items. All of these achievements are key components of the FPS mission to provide a safe and secure environment for Federal workers and the American public.

—*Enhancing Security in the Skies.*—ICE’s Federal Air Marshal Service (FAMS) once again logged millions of miles on tens of thousands of flights in fiscal year 2004, as part of the division’s enhanced mission of providing security in the air since 9/11. All FAMS recruited and deployed since 9/11 have successfully completed advanced training—an important benchmark to ensure professionalism and peak performance.

—*Stopping the Flow of Drugs into the United States.*—ICE plays a leading role in the Nation’s war on drugs, with significant results. In fiscal year 2004, ICE agents, working in cooperation with our partners at other agencies, were involved in the seizure of roughly 3.1 million pounds of illegal drugs in fiscal year 2004—a 63 percent increase over the previous year. Another key achievement stemming from an ICE investigation was the extradition of one of the leaders of Cali drug cartel from Colombia, as well as the arrest of several leaders of the Norte Valle cartel.

—*Providing Support and Assistance to the Law Enforcement Community.*—ICE’s Law Enforcement Support Center (LESC) responded to more than 603,000 inquiries related to immigration status from Federal, State, and local authorities in fiscal year 2004—a 12 percent increase over the previous year. In addition, the LESC placed more than 15,000 immigration detainees with police agencies nationwide. These detainees allow ICE to more efficiently remove aliens from the United States once their jail term is expired.

#### CHALLENGES

I could continue with many, many additional examples. I would like to note that ICE’s accomplishments of the last 2 years—which I believe are unprecedented in law enforcement—have taken place against a backdrop of significant challenges.

First, we have faced the organizational and logistical challenges inherent in bringing our various divisions together into an integrated whole within the Department of Homeland Security. The challenges of the DHS reorganization have been likened to “trying to change the engine in an airplane in mid-flight.” We have certainly experienced those challenges at ICE, where we have had to build a new agency almost from the ground up—bringing together divisions from four separate agencies into a single functioning unit, and melding the cultures and missions of various units into a unified whole. This process was analogous to that of building a new start-up company while performing a large-scale merger and acquisition—with the notable difference that we had but a few weeks to accomplish our merger, compared to the months, or years, that would be devoted to a merger in the private sector. While the reorganization is still ongoing, I am pleased to report that the majority of these organizational and logistical challenges have been met and addressed, thanks to the commitment, and perseverance of ICE employees.

Another significant challenge that ICE has faced has been budget issues related to resource allocations. During the reorganization of the new department, the budgets for component agencies—including those for overhead, information technology support, legal support, and other administrative functions—were broken apart in ways that were not entirely consistent. As a result, in some cases ICE was paying for services when the funds for those services had been allocated to other agencies. When we realized the budget issues that would arise from these allocation errors, we took swift action. ICE placed a temporary freeze on new hires; we limited expenditures to those deemed “mission essential”; and we moved to set clear priorities for funding. We also worked with DHS to undertake a budget review to determine what money was appropriately due to ICE in return for shared services.

These measures got results. Diligent and conscientious efforts on the part of our employees and field management helped us to realize \$120 million in short-term savings during fiscal year 2004. In addition, ICE identified and recouped more than \$500 million from other agencies in the second half of fiscal year 2004. ICE also bought services from other DHS components as part of the shared services concept such as HR, logistics and fleet management.

We are also in the process of systematically improving financial management throughout the entire agency. Some changes have been implemented, and we expect to implement additional improvements in the coming months. We will update the Congress periodically with details on our reforms in reports requested by the Committees.

While this has been a challenging time for ICE, we have made every effort to communicate the facts to our employees at every opportunity—through such measures as town hall meetings; broadcast messages to all employees; and visits by myself and other members of the agency's senior leadership to all of our field offices.

Over the past 2 years ICE employees have refused to be defined by our challenges, but rather by our achievements, which represent the true story of our agency. Our accomplishments represent the abiding commitment of all ICE employees to meeting these challenges head-on and accomplishing the critical mission with which we are charged.

#### BUDGET REQUEST FOR FISCAL YEAR 2006

The proposed fiscal year 2006 budget builds on the foundation of our accomplishments while addressing many of the challenges outlined above. The President's fiscal year 2006 Budget request seeks more than \$4.36 billion for ICE, which represents an increase of 13.5 percent over fiscal year 2005. This budget request will allow ICE to pursue our priority missions—including the apprehension, detention, and removal of illegal aliens; financial and trade investigations; protection of Federal infrastructure; and protection of the civil aviation system—with even greater effectiveness. In my testimony, I will address our major program areas—Investigations, Detention and Removal Operations, the Federal Air Marshal Service, and the Federal Protective Service—as well as issues related to management, administration, and information technology.

#### FISCAL YEAR 2006 ENHANCEMENTS

The President's fiscal year 2006 budget proposal request for ICE Detention and Removal Operations will enhance public safety and national security by ensuring that those aliens who pose the most critical threats are removed from the United States first—a critical objective in ICE's long-term strategy to restore integrity to the Nation's immigration system. In addition, this funding will help ICE to meet its detention needs, which are growing every year as we move to aggressively enforce immigration laws. This funding will help ICE to continue building on the vigorous enforcement efforts we have developed in the last 2 years.

*Detention and Removal Operations.*—The DHS Immigration and Customs Enforcement (ICE) fiscal year 2006 President's budget seeks \$176.0 million in enhancements for Detention and Removal Operations:

- \$90 million/16 Full-Time Employees (FTEs) for Custody Management/Bedspace. In many cases, apprehended aliens must be detained while they go through immigration proceedings and until they are removed. Custody Management provides safe, secure, and humane confinement for these aliens. It also ensures that aliens in ICE custody appear for their immigration hearings, and then for their subsequent removal. This request would provide \$90 million to fund requirements of the Custody Management budget activity, adding 16 FTE and increasing funded bedspace by 1,920 beds. This enhancement will improve detention efforts that ensure public safety and national security.
- \$5.4 million/7 FTEs for the Alternatives to Detention program. The Alternatives to Detention program places low-risk aliens under close supervision, rather than into traditional detention, serving as a cost-effective way to ensure their appearance for an immigration hearing or for removal. ICE's Intensive Supervision Appearance Program (ISAP) is a community-based case management program that is aimed at improving the appearance rate of aliens at immigration hearings. This request includes \$5.4 million/7 FTE to expand the ISAP to two additional locations.
- \$8.9 million for Fugitive Operations. Approximately 465,000 aliens have received final orders of removal but are not confirmed to have departed the United States. This request includes \$8.9 million to enhance case management resources that enable the Fugitive Operations program to locate and apprehend fugitive aliens in the United States. This investment will serve to improve the integrity of the immigration enforcement process that is instrumental in deterring the efforts of potential absconders.
- \$5.4 million/19 FTEs for the Institutional Removal Program (IRP). Many removable aliens are currently incarcerated in Federal or State prisons for criminal convictions. If these aliens are released upon completion of their criminal sentence, they are likely to avoid immigration removal proceedings. The IRP ensures that these aliens are not released back into the community before they are removed from the United States. The \$5.4 million requested would provide for Immigration Enforcement Agents to enhance the IRP with staff support

needed to facilitate the removal of aliens following completion of criminal sentences.

- \$39.3 million for Interior Repatriation, as part of the Arizona Border Control multi-agency effort. One of the major components of enhanced border control is a focus on border safety through the removal of migrants from the dangers associated with crossing the border illegally. The United States, in cooperation with the government of Mexico, has focused on the use of every available tool to break the cycle of migrant deaths in the dangerous terrain where human smugglers value profits more than the human life they often sacrifice for personal gain. One of the major tools agreed to by both countries is the use of a voluntary interior repatriation program. The interior repatriation program allows for movement at the U.S. border of Mexican nationals who voluntarily return to selected cities within the interior of Mexico by means of commercial flights. Without this program, a significant number of persons who are apprehended and returned to Mexico at the border seek re-entry through dangerous border terrains, thus repeatedly risking injury or death in the process.
- \$24.0 million for the Office of Detention and Removal. This request provides that the base budget for Detention Removal Operations be adjusted by \$24 million for salary costs and operating expenses. These funds will augment support for increased detention and removal activities to ensure the departure of removable aliens from the United States through the fair enforcement of immigration laws.

ICE's Office of Investigations and Office of Intelligence play a vital role in advancing national security and homeland defense through aggressive investigations and cooperation with other agencies to share information on organized criminal activity and terrorist organizations. ICE's investigators have a long history of targeting money laundering networks; narcotics trafficking; criminal financial schemes; counterfeiting and piracy; trade fraud; export violations; and other financial and economic crimes. In addition, our investigators lead the way in targeting child sexual predators, human traffickers, and child labor violators. Our investigators are also at the forefront of combating immigration violations, including enforcement of immigration laws at worksites and shutting down organizations that provide fraudulent documentation for a price.

*Investigations and Intelligence.*—The ICE fiscal year 2006 President's budget seeks \$171.7 million in enhancements for Investigations and Intelligence:

- \$43.7 million/346 FTEs for Organized Crime Drug Enforcement Task Force (OCDETF) activities. This increase replaces funding previously received on a reimbursable basis from the Department of Justice (DOJ) for ICE's participation in the OCDETF program. OCDETF is a Federal drug enforcement program that focuses on the disruption and dismantling of major drug trafficking organizations. OCDETF has been in existence since 1982 and operates under the guidance and oversight of the Attorney General. Employing the resources and expertise of 11 member Federal agencies, along with support from State and local law enforcement agencies, OCDETF has contributed to the successful prosecution and conviction of more than 44,000 members of criminal organizations and resulted in the seizure of cash and property assets totaling more than \$3.0 billion. This enhancement requests no additional FTEs but proposes that 346 positions currently on board be paid by direct appropriation instead of by reimbursable funding.
- \$5.0 million/5 FTEs for Visa Security Program Expansion. The ICE Visa Security Program provides follow-up investigations on visa applicants seeking to enter the United States, for the purpose of denying visas to terrorists, criminals, and persons of special interest. Officers are assigned to posts to perform this law enforcement review of immigrant and nonimmigrant visa applications prior to visa issuance by consular officers of the Department of State. This enhancement would allow ICE to maintain operations initiated in fiscal year 2005 and support one additional Visa Security Unit overseas.
- \$18.0 million/72 FTEs for Temporary Worker Worksite Enforcement. As part of the President's proposed temporary worker program (TWP) to match willing foreign workers with willing U.S. employers, enforcement of immigration laws to ensure compliance is required. The requested resources would fund 143 positions and the required training to conduct employer audits, investigate possible violations, and prepare criminal employer case presentations. This funding more than doubles the resources dedicated to the worksite enforcement effort.
- \$105.0 million for the Office of Investigations. This request includes \$105 million for salary and support costs, including vehicle and other equipment purchases.

- \$3.5 million/24 FTEs for Legal Proceedings. This enhancement would provide funding for additional attorneys and support staff required to improve the ability of ICE's legal program to complete matters in Immigration Court and help reduce the case backlog.
- \$11.3 million/1 FTE for the Homeland Secure Data Network (HSDN). A total of \$37 million is required for the HSDN to provide for secure classified, computer-to-computer connectivity. The HSDN is expected to streamline and modernize the classified data capabilities of DHS to facilitate high-quality and high-value classified data communication and collaboration within DHS and with other Federal agencies and organizations, including the Department of Defense (DOD). Based on modern network and telecommunications designs, the HSDN will optimize both the classified data exchanges between DHS offices, and other networks of classified data such as the Anti-Drug Network (ADNET), Automatic Digital Network (AUTODIN), and Defense Message System (DMS). The HSDN will provide a scalable infrastructure, capable of supporting the growth and evolution of the DHS mission. ICE's allotted portion in support of the network is \$11.3 million. Enhancement request includes one position to serve as a liaison between ICE and DHS.

The Federal Air Marshal Service (FAMS) has been charged with providing security in the skies since 9/11. The President's budget request will help FAMS to continue in that mission as we continue the evolutionary process of integrating this key Homeland Security division into the agency.

*Federal Air Marshal Service (FAMS).*—The ICE fiscal year 2006 President's budget seeks \$14.8 million in The Federal Air Marshal Service (FAMS) has been charged with providing security in the skies since 9/11. The President's budget request will help FAMS to continue in that mission as we continue the evolutionary process of integrating this key Homeland Security division into the agency.

*Federal Air Marshal Service (FAMS).*—The ICE fiscal year 2006 President's budget seeks \$9.9 million in enhancements for the Federal Air Marshal Service (FAMS). This enhancement request would allow the FAMS to increase its staffing level to a level that will allow it to meet its mission objective through the risk-based deployment of Federal Air Marshals. In accomplishing this objective, FAMS works closely with DHS and other Federal, State and local agencies and private industry to develop, deploy and sustain a comprehensive intelligence-driven approach and response to terrorist and related criminal threats against the United States and its interests. FAMS provides critical support to the DHS mission to prevent terrorist acts within the United States, reduce vulnerability to terrorism, and minimize damage from potential attacks.

#### CONCLUSION

The President's fiscal year 2006 budget request for ICE is a solid step forward for the agency. ICE is dedicated to protecting the homeland by enforcing immigration and customs laws; restoring integrity to the immigration system; ensuring the sanctity of our financial and trade systems; protecting Federal property; and ensuring security in the air. That is a broad and diverse mission, but the men and women of ICE are dedicated to building this agency into a model for law enforcement in the 21st century. The fiscal year 2006 budget request provides us with the resources that will make this goal a reality as we strive to secure the American homeland and protect the American people. We look forward to continuing to work with you to accomplish these worthy objectives.

I would like to thank you, Chairman Cochran, Senator Byrd, and Members of the Committee, for the opportunity to testify before you today. I look forward to answering any questions that you may have.

Senator COCHRAN. Thank you very much, Mr. Garcia.  
Mr. Bonner, you may proceed.

#### STATEMENT OF ROBERT C. BONNER

Mr. BONNER. Yes, thank you, Mr. Chairman, Senator Byrd, Senator Leahy. I am very pleased to be here this morning to discuss the fiscal year 2006 budget request for U.S. Customs and Border Patrol, or CBP. I am also very pleased to be here with my colleagues from the Department of Homeland Security, both Director Aguirre of CIS and Mike Garcia, the Assistant Secretary for ICE.

I particularly want to thank the members of this subcommittee for your strong support of the work that CBP does every day 24-7 to protect and defend the borders of our country. As you know, CBP's priority mission is homeland security and for a front-line border agency, which is what we are, that means that CBP's priority mission is keeping terrorists and terrorist weapons from getting into the United States.

The budget request for 2006 in my view will provide resources to perform our all-important priority mission, our anti-terrorism mission, as well as our traditional missions, which go from everything from interdicting illegal drugs at our border to determining admissibility of people appearing at our ports of entry to apprehending people illegally entering the United States, protecting American agriculture, regulating trade, as well as collecting about \$27 billion in duties and fees.

#### FISCAL YEAR 2004 WORKLOAD STATISTICS

The magnitude of our border task is reflected by just a few statistics from fiscal year 2006, because in fiscal year 2004 CBP through its Border Patrol agents apprehended over 1.1 million people illegally entering our country or attempting to enter our country, 1.1 million. By the way, you want to translate that? It is about 3,000 each and every day of the year, day and night.

CBP officers at our ports of entry and Border Patrol agents collectively seized slightly over 2 million pounds, nearly 1 million kilograms, of illegal drugs attempting to be entered through our ports of entry. That is 56,000, by the way, separate seizures of illegal drugs at our borders last year.

We seized almost \$46 million in cash and currency that was leaving the United States, much of that of course is from the proceeds of illegal drug trafficking. We just seized about \$1.7 million in cash in a vehicle a couple of days ago that was going outbound in a vehicle through the Port of Laredo back to Mexico.

There were 450,000 aliens that were turned around at our ports of entry. By that I mean they were not allowed to enter the United States because they were determined to be inadmissible. There were 78,000 fraudulent passports and other documents that were seized and intercepted by CBP at our borders.

#### ONE FACE AT THE BORDER

So it gives you an idea of the magnitude of the task, but it also tells you what we are doing and that the job is getting done. We have unified our work force to create one unified front-line border agency for managing and securing and controlling the borders of our country. We have developed a comprehensive border strategy at our ports of entry for our CBP officers and Agriculture specialists and between our ports of entry, primarily our land borders with Mexico and Canada, with our CBP Border Patrol agents.

The transfer of the air and marine operations to CBP last November I believe further strengthens our effort to secure our borders, to interdict drugs at and beyond our borders, and to support our homeland security mission.

#### TRADE/TRAVEL FACILITATION

We have moved forward on important initiatives set in motion after 9/11 to secure the movement of goods and people across our border and our ports of entry without unduly impeding the legitimate flow of trade, the flow of legitimate trade and travel that is so important to our economy.

#### WEAPONS OF MASS DESTRUCTION DETECTION TECHNOLOGY

We are also deploying more technology at our ports of entry and between them to help detect potential terrorists and terrorist weapons, including potentially weapons of mass destruction, and I am talking about nuclear devices and radiological weapons, at our borders. This includes, by the way, already the over 400 radiation portal monitors at many of our major ports of entry. We are in phases three and four of that project to deploy better radiation detection equipment at our borders.

As I said, Mr. Chairman, because the personnel and functions from the front-line border agencies of our you have been unified into one border agency, our Nation's borders are more secure and our Nation is safer than it was when we were literally fragmented between four agencies and three different departments of government that were responsible for our border. With over 41,000 approximately FTE Customs and Border Protection, about one-fourth of all the employees of the Department of Homeland Security, is by far the largest actual merger of people and functions taking place in the Department.

#### COMPREHENSIVE BORDER CONTROL STRATEGY

Having one border agency also allows us for the first time in the history of our country to implement a comprehensive border strategy, not just at our ports of entry but between our ports of entry as well. Between our ports of entry—along the Mexican border and the Canadian border—the strategic goal is clear. That goal is to establish operational control of our borders, which by the way I think was always an important goal for our country, but is absolutely essential, as Senator Byrd suggested in his comments. It is absolutely essential in the post-9/11 era, in the era of global terrorism.

Now, to do this, by the way, it is not all about staffing. It is also about the better use and deployment of technology. It is about organizing ourselves better in terms of how we protect and secure our border. To do this, we have done a number of things that are not widely known. One is we have centralized the Border Patrol command structure and increased the use and deployment of technology, including remote camera system and sensoring devices. We are pioneering as the first law enforcement agency ever the use of unmanned aerial vehicles, or UAV's, to establish literally an aerial patrol over significant segments of our borders.

But we recognize that technology alone, by the way, is not a substitute for well trained and dedicated Border Patrol Agents. One of our goals of our strategy to control the border is to increase our ability to more rapidly deploy Border Patrol Agents to respond to weak spots along our borders with Mexico and Canada.

#### CARGO/SUPPLY CHAIN SECURITY

Let me just say one other thing. Just shortly after 9/11, U.S. Customs, now CBP, developed a strategy for securing the movement of cargo to the United States and we did that through essentially four interrelated initiatives: the 24-hour rule to get advance information on all cargo coming into the United States; the use of an automated targeting system to identify the high-risk cargo, particularly for the terrorist threat, and that is done at our National Targeting Center in Northern Virginia; the container security initiative, an initiative that partners with other governments to screen high-risk containers before they are loaded on board vessels for the United States. Currently there are 35 foreign seaports that are partnered with us in CIS, including ports like Singapore and Rotterdam, and most recently Shanghai, China.

Through the Customs Trade Partnership Against Terrorism (C-TPAT), our partnership with the private sector, many major importers in the United States, oceangoing carriers and others, to improve the security of the supply chain literally back to the manufacturer, the foreign loading docks of manufacturers in foreign countries, all the way to U.S. ports of arrival, in exchange for benefits of faster processing that CBP can give to goods of companies that have better secured their supply chain.

Those initiatives provide greater protection for our country against potential terrorist attack and not a one of those initiatives existed before 9/11.

#### PREPARED STATEMENT

Thank you, Mr. Chairman, for letting me make an opening statement and for this opportunity to appear, and I look forward to answering any questions you or the other members may have.

[The statement follows:]

#### PREPARED STATEMENT OF ROBERT C. BONNER

##### INTRODUCTION AND OVERVIEW

Chairman Cochran, Ranking Member Byrd, Members of the Subcommittee, it is a privilege and an honor to appear before you today to discuss U.S. Customs and Border Protection's (CBP) fiscal year 2006 budget request.

I want to begin by expressing my gratitude to the Committee for the support it provided for important initiatives implemented by CBP last year. That support enabled CBP to make significant progress in securing our borders and protecting our country against the terrorist threat. As the Commissioner of CBP, I look forward to working with you to build on these successes.

As the frontline border agency, CBP's mission is to prevent terrorists and terrorist weapons from entering the United States. That extraordinarily important priority mission means improving security at our physical borders and ports of entry, but it also means extending our zone of security beyond our physical borders—so that American borders are not our first line of defense.

And we must do this while continuing to perform our traditional missions well. These missions include apprehending individuals attempting to enter the United States illegally, stemming the flow of illegal drugs and other contraband, protecting our agricultural and economic interests from harmful pests and diseases, protecting American businesses from theft of their intellectual property, regulating and facilitating international trade, collecting import duties, and enforcing U.S. trade laws. In fiscal year 2004, CBP processed almost 30 million trade entries, collected \$27 billion in revenue, seized 2.2 million pounds of narcotics, processed 428 million pedestrians and passengers, 121 million privately owned vehicles, and processed and cleared 23.5 million sea, rail and truck containers.

We must perform all of this important security and border-related work without stifling the flow of legitimate trade and travel that is so important to our Nation's economy. In other words, we have "twin goals:" Building more secure and more efficient borders.

The fiscal year 2006 budget for CBP totals \$6.7 billion, including \$5.6 billion in appropriated resources and \$1.1 billion from user fees. The total program increase request for fiscal year 2006 is \$261 million. This increase is paramount to help CBP fulfill its priority mission of preventing terrorists and terrorist weapons from entering the United States. As Commissioner, I will continue to ensure funds are devoted to support the traditional missions for which CBP is responsible, including resources for the automation and information technology programs that will improve overall operations of the agency.

Mr. Chairman, although I will touch on each of the priority programs and initiatives in my statement, I want to point out that in many cases, funds spent in one area have a direct and positive impact on other areas. For example, funds spent on automation and information technology provide invaluable assistance to our priority mission of preventing terrorists and terrorist weapons from entering the United States. Also, funds spent on our priority anti-terrorism mission often result in improvements in our effectiveness and efficiency in carrying out our traditional missions, such as interdicting narcotics.

By way of summary of the fiscal year 2006 budget for CBP, I can tell you that the program increases we are requesting include:

- \$125 million to continue the deployment and enhancement of Weapons of Mass Destruction Detection Technology to our Nation's ports of entry (POE);
- \$19.8 million for the continued deployment of surveillance and intrusion detection technology along our Nation's land borders through the America's Shield Initiative;
- \$36.9 million to hire 210 new Border Patrol Agents thereby increasing border security and enhancing control of the borders between the ports of entry;
- \$20 million to replace 12 of the Border Patrol's 58 Vietnam-era vintage helicopters ensuring that Agents on the ground have adequate and reliable air support;
- \$5.4 million to enhance and improve the efficiency of our cargo, conveyance and passenger screening systems ensuring that legitimate trade and travel crosses our borders without delay and that terrorists and their weapons, criminals or contraband are intercepted before entering the United States;
- \$2.0 million for expansion of the Immigration Advisory Program to additional overseas locations ensuring that terrorists, criminals or persons traveling with fraudulent documents do not board aircraft bound for the United States;
- \$5.4 million to expand the Container Security Initiative to strategically important foreign seaports;
- \$8.2 million for the Customs-Trade Partnership Against Terrorism to increase supply chain security and expedite the clearance of legitimate trade;
- \$1.0 million for the operating expenses associated with the Arizona Border Control Initiative;
- \$3.0 million for the operation of the Automated Biometric Identification System (IDENT)/Integrated Automated Fingerprint System (IAFIS) so that CBP Officers and Border Patrol Agents can positively identify known terrorists and criminals attempting to enter the United States;
- \$31.7 million to operate and maintain the long range radar system in partnership with the Department of Defense, ensuring that aircraft are detected and tracked as they attempt to enter U.S. airspace; and
- \$3.2 million to contribute to the development of the DHS-wide Homeland Security Data Network.

In my statement, I will discuss these programs and others that CBP has been working on during the past year, and outline the actions CBP is planning to take in each area. I would like to begin, though, with a brief update for the Subcommittee on the status of CBP after its second year of existence as a consolidated agency within DHS.

#### CUSTOMS AND BORDER PROTECTION—THE SECOND YEAR

Fiscal year 2004 was the first full year that CBP operated as the single, unified border agency for the United States. From a strategic and operational standpoint, this consolidation has significantly increased our ability to execute our anti-terrorism and traditional missions at our Nation's borders more effectively than ever before, thereby enhancing the security of the United States, its citizens and the economy. I believe firmly that the United States is safer today than it was on Sep-

tember 11, 2001, because of the creation of CBP and the efforts and vigilance of CBP's personnel.

#### *Achieve One Face at the Border*

With the creation of CBP, one agency has the responsibility for the entirety of our country's borders, for all purposes, customs, immigration, agriculture protection and, importantly, terrorism. This means that for the first time in our Nation's history, we are able to design a comprehensive strategy for our borders.

To create "One Face at the Border," CBP had to unify and integrate its operations and workforce. CBP is the largest merger of people and functions taking place within the DHS. Nowhere was unification more critical than at the ports of entry (POEs) where 19,000 legacy Customs, Immigration and Agriculture inspectors joined together to carry out CBP's priority and traditional missions. To unify the Inspector workforce at the POEs, CBP established a new frontline team—the CBP officer and CBP Agriculture Specialist. In March 2004, former Agriculture Inspectors became CBP Agriculture Specialists and in July, all former Customs and Immigration Inspectors were converted to the CBP Officer position with a new series, title and job description. The two occupational groups wear the same uniform and have been unified under a single compensation system for overtime and premium pay, ensuring efficient and equitable assignment of work and compensation. This consolidation was commemorated in August when the new CBP badges with the DHS seal were issued to our personnel. Today CBP Officers and CBP Agriculture Specialists are our frontline team at all of our Nation's ports of entry and overseas pre-clearance locations.

#### *Secure and Improve the Flow of Global Trade*

For the first time ever, on December 9, 2004, the World Customs Organization (WCO) Policy Committee endorsed a Framework of Standards to secure and facilitate global trade. The WCO represents 164 Customs administrations from around the world and accounts for 99 percent of all global trade. The framework is based in large part on principles designed and implemented by CBP in the aftermath of September 11, including: the 24-Hour Rule; the Advanced Targeting System located at the National Targeting Center; the Container Security Initiative, and the Customs-Trade Partnership Against Terrorism (C-TPAT). The WCO framework encourages cooperation among worldwide Customs administrations to secure international supply chains and facilitate the movement of legitimate trade and travel.

#### *Develop and Implement a Comprehensive Border Control Strategy*

As a sovereign Nation, it has always been important that we control our borders. In light of the terrorist attacks of September 11, and the continuing threat posed to our country by international terrorists, it is now absolutely essential that we do so, and it is likewise essential that we have a coherent and understood strategy for doing so. We are developing a new Border Patrol strategy designed to achieve the goal of operational control of the United States borders. This strategy will build on the previous Border Patrol strategies, but will be enhanced to reflect the current threat environment.

CBP's Office of Border Patrol is a vital part of CBP, responsible for controlling the border between official ports of entry. In the last 2 years, the Border Patrol has made significant strides in improving our ability to control our border and establish a substantial probability of apprehending terrorists and their weapons as they attempt to illegally enter the United States between the ports of entry. For example, CBP has tripled the number of Border Patrol Agents on the Northern Border since 9/11, centralized the Border Patrol's command structure, and deployed additional technology to improve border enforcement operations, including cameras, electronic sensors, and Unmanned Aerial Vehicles.

As important as these milestones are, we cannot afford to become complacent or let down our guard. To meet the threat of global terrorism, we must implement a layered, defense in-depth strategy to protect our borders. New challenges and opportunities are on the horizon for CBP. Our achievements over the past year and the President's fiscal year 2006 budget will serve as the foundation to meet them.

#### *Integrate Air and Marine Operations*

The fiscal year 2005 Department of Homeland Security (DHS) Appropriations Act directed the transfer of missions and assets of the Air Marine Operations (AMO) from Immigration and Customs Enforcement (ICE) to CBP. The transfer will be completed in two phases. Phase One, which was completed on October 31, 2004, moved AMO intact from ICE to CBP. This included the transfer of operational responsibility and responsibility for all AMO personnel, missions, commitments, facilities, and assets to CBP.

Phase Two, which commenced in late November, is the integration of all CBP air and marine personnel, missions, and assets. To accomplish this, CBP is using the Transition Management Office (TMO) process that was used successfully during the merger of the legacy CBP entities. CBP has made significant progress in Phase Two. I am confident that upon completion of this process, we will have a more integrated, effective and efficient aviation and marine program.

*Provide Assistance to the New Government of Iraq*

In August, teams of CBP Officers and Border Patrol Agents were deployed to the Jordanian International Police Training Center to train officers of the Iraqi Department of Border Enforcement. The Iraqis have been provided with courses on border security tactics, human rights, defensive tactics, weapons training, and vehicle searches; in addition to basic customs and immigration activities. To date, CBP personnel have assisted in the training of more than 2,100 Iraqi border control officers. The training provided by CBP personnel will continue in the aftermath of the recent elections and focuses on keeping saboteurs, terrorists and armaments from crossing into or out of Iraq. The Iraqi officials CBP trained are now putting these skills to use at their country's borders and ports of entry.

MEETING OUR TWIN GOALS: BUILDING MORE SECURE AND MORE EFFICIENT BORDERS

As the single, unified border agency of the United States, CBP's mission is extraordinarily important to the protection of America and the American people. In the aftermath of the terrorist attacks of September 11th, CBP has developed numerous initiatives to meet our twin goals of improving security and facilitating the flow of legitimate trade and travel. The fiscal year 2006 budget will help us expand upon those initiatives to ensure further protection of both the American people and the American economy. Our strategy in implementing these initiatives involves a number of factors, including: (A) constant improvement of our targeting systems to better screen people and goods entering and departing the United States; (B) extending our zone of security outward by partnering with other countries; (C) extending our zone of security outward by partnering with the private sector; (D) deploying advanced inspection technology and equipment at our ports of entry to improve our ability to detect weapons of mass destruction; and (E) deploying advanced detection and monitoring equipment between our ports of entry to detect illegal crossings of our land borders with Mexico and Canada.

*Enhancing Our Ability to Identify High-Risk People and Cargo*

Information is one of the most important keys to our ability to increase security without stifling legitimate trade and travel. Good information enables us to more accurately identify—or target—what is “high risk,” defined as a potential threat, and what is low risk or absolutely no risk whatsoever. The separation of high risk from no risk is critical because searching and scrutinizing 100 percent of the cargo and people that enter the United States would cripple the flow of legitimate trade and travel to the United States. What is necessary and advisable is searching 100 percent of the high-risk cargo and people that enter our country. To do this, we need to be able to identify what is high risk, and do so as early in the process as possible. CBP has several programs and initiatives that help us accomplish that task.

*Automated Targeting System*

The Automated Targeting System (ATS), which is used by National Targeting Center (NTC) and field targeting units in the United States and overseas, is essential to our ability to target high-risk cargo and passengers entering the United States. ATS is the system through which we process advance manifest and passenger information to pick up anomalies and “red flags” and determine what passengers and cargo are “high risk,” and therefore scrutinized at the port of entry or, in some cases, overseas.

The funding increases sought for ATS in the fiscal year 2006 budget will allow for the continued improvement of the system as well as provide it with the capacity to process the electronic data related to the ever-increasing number of people and goods entering the United States. For example, the funding will allow us to develop and implement a version of ATS that, for the first time, will be able to identify potentially high-risk travelers in passenger vehicles. It will also be used to upgrade our passenger targeting system by improving the amount of government data that the system can access and analyze as well as provide us with the capacity to train more people on the use of the system. On the cargo side, the funding will permit ATS to increase its capacity and upgrade its capabilities by utilizing cutting edge information analysis technologies developed by CBP and the private sector.

*Extending our Zone of Security Outward—Partnering with Other Countries  
Container Security Initiative (CSI)*

To meet our priority mission of preventing terrorists and terrorist weapons from entering the United States, CBP must extend our zone of security outward—so that our borders are not the first line of defense to keep terrorists and terrorist weapons out of the United States. We have done this by partnering with other countries on our Container Security Initiative (CSI), one of the most revolutionary and successful homeland security initiatives developed and implemented after September 11, 2001.

Almost 25,000 seagoing containers arrive and are off loaded at U.S. seaports each day. That equates to nine million cargo containers annually. Because of the sheer volume of sea container traffic and the opportunities it presents for terrorists, containerized shipping is uniquely vulnerable to terrorist attack. Under CSI, which is the first program of its kind, we are partnering with foreign governments to identify and inspect high-risk cargo containers at foreign ports, before they are shipped to our seaports and pose a threat to the United States and to global trade.

The three core elements of CSI are:

- First, identifying “high-risk” containers, using ATS and the 24-hour rule, before they set sail for the United States.
- Second, performing security inspections of “high risk” containers at the foreign CSI port before they are shipped to the United States.
- Third, using technology to perform security inspections of the high-risk containers, including both radiation detection equipment and large-scale imaging machines, to detect potential terrorist weapons.

CSI continues to generate exceptional participation and support. Right now, CSI is operational in 35 foreign seaports, including: Rotterdam, the Netherlands; Le Havre and Marseilles, France; Bremerhaven and Hamburg, Germany; Antwerp and Zeebrugge, Belgium; Singapore; Yokohama, Tokyo, Nagoya and Kobe Japan; Hong Kong; Gothenburg, Sweden; Felixstowe, Liverpool, Southampton, Thamesport, and Tilbury United Kingdom; Genoa, La Spezia, Naples, Gioia Tauro and Livorno Italy; Busan, Korea; Durban, South Africa; and Port Kelang and Tanjung Pelepas, Malaysia; Piraeus, Greece; Algericas, Spain; and Laem Chabang, Thailand; Halifax, Montreal and Vancouver, Canada; and most recently Shanghai, China.

I want to express my gratitude to the Committee members for their support of CSI in fiscal year 2005. With the \$5.4 million increase in funding requested for fiscal year 2006, we will continue expanding CSI capabilities to ports with strategic importance or ports through which containers from high risk areas are trans-shipped. The fiscal year 2006 budget will allow for future expansion of the program to additional high-risk or strategic foreign ports.

*Immigration Advisory Program*

The Immigration Advisory Program (IAP) extends our zone of security outward by screening passengers before boarding aircraft destined for the United States. Immigration Advisory Program teams identify high risk and terrorist watchlisted passengers using the Automated Targeting System and are able to intervene by questioning high risk passengers at overseas boarding areas of foreign hub airports. They are able to check documentation of high-risk passengers prior to departure and make preliminary decisions whether the passenger will be admissible to the United States upon arrival. If potentially fraudulent identification or immigration documents are identified, or the individual's purpose poses a threat, the airline is advised not to board the passenger and the host country law enforcement is contacted. The IAP teams have access to the passenger screening information produced by CBP's NTC through the vetting of passenger manifests against terrorist watch lists and criminal databases. If a “hit” occurs or documents are found to be deficient or fraudulent, the passenger is not allowed to board the aircraft. There are two significant advantages to this approach. First, terrorists, criminals or inadmissible aliens are not allowed to board, thereby preventing their entry into the United States and/or the inconvenience and expense of an in flight diversion of the aircraft. Second, the United States Government avoids penalties and the costs of detaining the individual before being deported and the airline avoids the costs of transporting the individual back to the originating airport.

IAP is currently operating on a pilot basis in Amsterdam's Schipol Airport in the Netherlands and at Chopin Airport in Warsaw, Poland. The fiscal year 2006 budget includes \$2.0 million to expand IAP to two additional overseas locations. I thank the Committee for their support of this program in the fiscal year 2005 DHS Appropriations Act.

*Extending our Zone of Security—Partnering with the Trade*

*Customs-Trade Partnership Against Terrorism (C-TPAT)*

The Customs-Trade Partnership Against Terrorism (C-TPAT) is a voluntary partnership between CBP and industry to secure international supply chains from end-to-end. C-TPAT importers secure supply chains from the foreign factory loading docks of their vendors to the port of arrival in the United States. CBP, in return, offers C-TPAT shipments expedited processing and provides C-TPAT participants with other benefits.

As C-TPAT has evolved, we have steadily added to the rigor of the program. In order to join C-TPAT, a company must conduct a self-assessment of its current supply chain security procedures using C-TPAT security criteria and best practices developed in partnership with logistics and security experts from the trade. A participant must also commit to increasing its supply chain security to meet minimal supply chain security criteria. Perhaps most importantly, participants also make a commitment to work with their business partners and customers throughout their supply chains to ensure that those businesses also increase their supply chain security. By leveraging the influence of importers and others on different participants in the supply chain, C-TPAT is able to increase security of U.S. bound goods to the point of origin (i.e., to the point of container stuffing). This reach—to the foreign loading dock—which is beyond the regulatory reach of the United States Government, is critical to the goal of increasing supply chain security.

C-TPAT is currently open to all importers, cross-border air, sea, truck, and rail carriers, brokers, freight forwarders, consolidators, non-vessel operating common carriers, and U.S. Marine and Terminal operators. We are currently enrolling certain foreign manufacturers in the C-TPAT program as well, and we will continue to develop ways to include this important element of the supply chain in the program. The intent is to increase point of origin to point of arrival security into the supply chain with active C-TPAT links at each point in the logistics process.

Although C-TPAT is a partnership, the risk is too great to simply take participants at their word when it comes to their supply chain security. We have created a cadre of specially trained supply chain security specialists to validate the commitments made by C-TPAT participants—to ensure that they are increasing supply chain security as they have promised CBP. These specialists meet with personnel from C-TPAT participants and their business partners and observe the security of their supply chains, including security at overseas loading docks and manufacturing plants, as well as transportation links outbound to the United States. Through this process, we work with C-TPAT participants to identify ways that they can further increase their supply chain security and we ensure that companies that are not honoring their commitments lose their C-TPAT benefits. As of January 12, 2005, C-TPAT had reviewed and verified the security profiles for 4,460 companies; there are more than 3,500 company profiles pending acceptance. We have validated or are in the process of validating parts of the supply chain of over 1,200 of the 4,460 certified partners, or approximately 27 percent. Our fiscal year 2006 program increase request of \$8.2 million will enable outreach activities and continue validations and verifications of C-TPAT certified partner profiles.

*Using Technology to Detect Weapons of Mass Destruction at our Ports of Entry*

As trade increases, CBP's reliance on Non-Intrusive Inspection (NII) technology to secure the borders becomes more and more critical. Only by using NII technology to speed the inspections process for weapons of mass destruction (WMD) and contraband can CBP meet its twin goals of increasing security and at the same time facilitating trade.

CBP uses various technologies in different combinations to substantially increase the likelihood that a nuclear or radiological weapon or weapons grade material will be detected. In addition, CBP also uses NII technology to detect and interdict narcotics, currency and other contraband secreted in large containers and commercial shipments. Technologies deployed to our Nation's land, sea and air ports of entry include large-scale X-ray and gamma-imaging systems—systems that can image the contents of an entire container in minutes. These systems include the Vehicle and Cargo Inspection System (VACIS), Mobile VACIS, Truck X-ray, Mobile Truck X-ray, Rail VACIS, Mobile Sea Container Examinations Systems and the Pallet Gamma-ray System. In September 1996, our first large-scale NII system, a Truck X-ray, became operational in Otay Mesa, California. Today, we have 145 large-scale NII systems deployed.

In addition, we have developed and are implementing a comprehensive radiation detection strategy at our ports of entry. Pursuant to that Strategy, we are deploying nuclear and radiological detection equipment to include personal radiation detectors

(PRDs), radiation portal monitors (RPMs) and radiation isotope identifier devices (RIIDs). In combination with our layered detection strategy—working overseas to prevent the proliferation of nuclear materials and to detect them before they are shipped to the United States—and our use of multiple inspection technologies, these tools currently provide CBP with significant capacity to detect nuclear or radiological weapons and materials. We currently have over 400 RPMs deployed at our borders.

The fiscal year 2006 request includes \$125 million to continue the acquisition, deployment, and enhancement of Weapons of Mass Destruction Detection Technology at our Nations ports of entry. These actions will be coordinated with the Domestic Nuclear Detection Office (DNDO), which is being established to develop, acquire and support the deployment of the national nuclear detection architecture, including future acquisition issues. CBP's radiation detection strategy will be integrated into the overall strategy developed by DNDO.

Our investment in WMD Detection technology is paying off as demonstrated by the following recent event. On January 26, 2005, at the Los Angeles seaport a PRD activated in proximity to a vessel from Kwan Yang, South Korea. A search of the vessel revealed that the source of the radiation was located in the ship's engine room. Subsequent screening with a Radiation Isotope Identifier and analysis by CBP Laboratory and Scientific Services Personnel stationed at the NTC revealed that the material was Cobalt 60, a material used in industrial and medical applications. Following coordination with the Science and Technology Directorate's Secondary Reachback Program, scientists were dispatched from the Department of Energy Radiation Assistance Program and it was confirmed that the radiation levels posed no threat to safety and that it was emanating from a gauge in the ship's fire extinguishing system. Although this alarm proved to be benign, the event demonstrates CBP's improving ability to detect sources of radiation in conveyances arriving at our borders and quickly take appropriate action to resolve any potential threats. Indeed, since CBP installed the first RPMs in May 2002, we have resolved over 10,000 radiation hits of vehicles or cargo shipments crossing our borders.

#### *Detecting and Responding to Illegal Crossings Between our Ports of Entry*

##### *America's Shield Initiative (ASI)*

The America's Shield Initiative, formerly known as the Integrated Surveillance Intelligence System (ISIS), is an effort to develop a comprehensive and unified system of electronic surveillance of our entire land borders. ASI is a critical part of CBP's strategy to build smarter borders. This, in turn, is critical to the Border Patrol's ability to increase its apprehension capabilities along our borders, and thereby establish greater control of our borders. The deployment of ASI is critical to prevent terrorists from entering the United States and to achieve operational control of our Nation's borders.

I thank the Committee for the \$64.2 million provided for ASI in the fiscal year 2005 Appropriations Act. These resources are being used to solicit and award a contract for the nation-wide integration of legacy ISIS capabilities and to deploy additional systems along our borders. Nation-wide integrated ASI capabilities will provide the Border Patrol with a tactical, command and control, situational awareness and intelligence collection and management system. The \$19.8 million requested for fiscal year 2006 would enable CBP to broaden substantially its ASI coverage of the northern and southern borders by deploying the system where no coverage currently exists. In addition, with the advent of ASI, system capabilities will be improved to enhance the sensor and video surveillance capabilities of currently installed components, integrate new, state of the market surveillance technologies and increase interoperability with other law enforcement agencies.

ASI acts as an important force-multiplier that allows CBP's Border Patrol agents to remotely monitor the border and respond to specific illegal border crossings rather than having to exhaustively patrol an area adjacent to the border. By contrast, Border Patrol operations without ASI support are not only less effective, they are more resource-intensive and less safe for Border Patrol Agents. Expanding the portion of the border covered by electronic surveillance, integration of new components and technologies, and improved Agent support equipment via the ASI program will provide the Border Patrol with the increased ability to meet its and CBP's priority mission threats.

##### *Border Patrol Aircraft Modernization and Replacement*

Aviation is one of the most effective force multipliers used in securing our Nation's borders. Aircraft perform a multitude of missions in this environment, including border surveillance, operational patrol, personnel deployment to permit rapid response to intrusions, and medical evacuation. In fiscal year 2004, CBP Border Patrol

Aircraft flew almost 46,000 hours, apprehending 96,341 persons and assisted in seizing \$103.6 million in illegal narcotics. This equates to 2.1 arrests and \$2,259 in seized contraband for each flight hour. The largest segment of the Border Patrol fleet is its helicopters; including 58 that are Vietnam era vintage. The high level of flight time is taking its toll on these important assets. New parts are no longer manufactured, requiring that salvaged parts be used to repair broken or damaged aircraft. The \$20.0 million requested will allow CBP to begin implementation of the fleet modernization and replacement plan through the acquisition of 12 new helicopters. This initiative will improve Border Patrol Agent safety and ensure that these valuable assets, essential to effective border control, continue to be available to our frontline personnel.

#### *Border Patrol Agent Staffing*

An increase of \$36.9 million is included in the fiscal year 2006 budget to enhance Border Patrol staffing by 210 Agents. The additional Agents will be deployed along the southwest border to areas with the highest concentration of illegal entry activity. To date in, fiscal year 2005, there has been a 15 percent increase in apprehensions along the southwest border when compared to the aliens from the same time period in fiscal year 2004. In addition, there has been an increase in the number of Special Interest Aliens (SIA) and High-Risk Other Than Mexican illegal entrant aliens that pose an increased threat to U.S. national security. CBP has experienced significant operational success in targeted areas. Additional Agents and supporting resources are necessary to sustain and expand the progress made in border control efforts.

#### *Arizona Border Control Initiative-ABCI*

This landmark program supporting the mission of CBP to detect and deter terrorist activities and cross-border illegal trafficking of people and drugs was initiated on March 16, 2004, in the Border Patrol's Tucson Sector. Working in partnership with Immigration and Customs Enforcement (ICE), the government of Mexico, state, local, tribal and Federal law enforcement organizations, the CBP Border Patrol-led ABCI was designed to produce a safer and more secure southwest border at one of the weakest segments of our border with Mexico.

The goals of ABCI were and are to: (1) achieve operational control of the Arizona border (2) support CBP's priority antiterrorism mission; (3) significantly impair the ability of smuggling organizations to operate; and (4) decrease the rate of violent crime and reduce the need for social services in southern Arizona. In fiscal year 2004, as part of ABCI, CBP repatriated 14,058 Mexican nationals on a voluntary basis to the interior of Mexico by means of commercial flights. This is the first successful interior repatriation effort, and it is a result of cooperation of and coordination with the Government of Mexico. These flights decreased the incidence of border crossing recidivism and reduced the number of heat related exposure deaths in the Arizona desert by 69 percent—from 45 in fiscal year 2003, to 14 in fiscal year 2004 (during the period of July 12th through September 30th). ICE will assume responsibility for the interior repatriation flights in fiscal year 2006. Our fiscal year 2006 budget request of \$1.0 million will assist in offsetting the costs of CBP's continued participation in the ABCI. These resources will be used for Border Patrol Agent support costs and other operational expenses including fuel, vehicle maintenance, and overtime associated with increased border surveillance within the Arizona area of operation.

#### *Long Range Radar*

The fiscal year 2006 CBP budget includes a total of \$44.2 million, an increase of \$31.7 million over base resources for our share of the joint agreement with the Department of Defense (DOD) to assume financial responsibility for the operations and maintenance costs of the primary component of the Federal Aviation Administration (FAA) long-range radar system. Beginning in fiscal year 2006, CBP and DOD will share these costs equally.

Continued access to the primary component of the long-range radar system is essential to our ability protect the United States from acts of terrorism and drug smuggling via cross-border aviation. The FAA's primary radar system is used to track aircraft that either do not have transponders or have their transponders turned off in an attempt to avoid radar detection. Most small, non-commercial aircraft do not have transponders and these are the vehicle of choice for smugglers attempting to bring loads of cocaine, marijuana and heroin to the United States from Mexico and other source countries in Central and South America.

#### *IDENT/IAFIS*

The Automated Biometric Identification System/Integrated Automated Fingerprint Identification System otherwise known as IDENT/IAFIS, was established to merge the capabilities of the FBI's criminal master fingerprint file and the former Immigration and Naturalization Service's immigration violator database. These systems have been integrated into one system that captures biometric and biographical information through the use of a "10 Print" fingerprint machine and computer based facial imagery. The goals of the system are to identify repeat immigration offenders and identify criminals and previously deported aliens who should be detained. IDENT/IAFIS provides CBP's front line personnel with access to approximately 48 million criminal history records dating back to the 1920's. All Border Patrol field locations now have access to integrated IDENT/IAFIS and all CBP Ports of Entry will have access to the system by the end of this year. Previous studies indicate that combining IDENT and IAFIS checks increases the probability of identifying criminal aliens by almost 10 percent. In addition, significant efficiencies are gained by being able to electronically scan fingerprints to and get a response back from the databases within ten minutes. From October 1, 2003, through August 31, 2004, IDENT/IAFIS technology assisted Border Patrol Agents in the arrest of 138 homicide suspects; 67 kidnaping suspects; 226 sexual assault suspects 431 robbery suspects; 2,342 suspects for assaults of other types and 4,801 suspects involved with illegal drugs.

The Directorate of Border and Transportation Security has assumed ownership of the IDENT/IAFIS system. The fiscal year 2006, \$3.0 million budget initiative will offset CBP's share of IDENT/IAFIS operations and maintenance costs.

#### AUTOMATION/INFORMATION TECHNOLOGY

Mr. Chairman, no discussion of a successful strategy to protect the American people and the American economy in the 21st century would be complete without consideration of the central importance of automation and information technology to CBP's mission.

##### *Automated Commercial Environment*

The Automated Commercial Environment (ACE) is an important project for CBP, for the business community, for our country, and for the future of global trade. If done properly, it will reform the way we do business with the trade community. It will also greatly assist CBP in the advance collection of information for targeting high-risk cargo to better address the terrorist threat. And in doing so, it will help us expedite the vast majority of low-risk trade.

The successful implementation of ACE has been and continues to be one of my top priorities as Commissioner. Increasing support from Congress and the Administration for ACE has been essential to the development of the new system. Funding of \$321 million in fiscal year 2005 has enabled us to continue development and begin to expand the first installment of ACE benefits to the trade community. Indeed, since my testimony last year, I can tell you that the development of ACE and the efforts to put its capabilities to work on America's borders have continued full throttle. We have over 350 importers, brokers, and carriers using the ACE Secure Data Portal and, since June 2004, have been collecting an increasing amount of duties and fees via the ACE Period Monthly Statement. CBP is also operating a pilot test of the ACE truck cargo release software in the port of Blaine, Washington, and plans to expand this new capability to ports across our northern and southern borders. In parallel with this development, CBP is working with the DHS Chief Information Officer and the US-VISIT program to ensure compliance with the DHS Enterprise Architecture and position the ACE architecture so that it can be leveraged to support the broad homeland security mission.

Included within the \$321 million for ACE is \$16 million dedicated to continuing support of the International Trade Data System (ITDS). ITDS is our mechanism for coordinating intergovernmental support for ACE and ensuring that ACE meets the needs of government agencies with a need for trade data and a stake in border security. To that end, the ITDS Board of Directors has adopted a standard set of trade data as a step toward realizing the concept of using the ACE portal as the "single window" into government for the trade community. We are pleased to report that the original group of eight participating agencies in ITDS has now grown to twenty-six. Representatives from these agencies are actively involved in defining the releases of ACE software.

I want to thank Congress again for its past support of ACE. The continued support of ACE with \$321 million in funding for fiscal year 2006 will enable us to keep pace with our schedule for future ACE releases including:

*Account Revenue and Secure Trade Data*

ACE Release 5, scheduled to be complete in fiscal year 2007 will leverage the inherent capabilities of CBP's core financial system, SAP. Release 5 will integrate the entry summary business process from manifest receipt to entry liquidation. Through this release, ACE will become the system of record for all entry summaries.

*Screening and Targeting Capabilities*

The Targeting Foundation scheduled for release during fiscal years 2005 and 2006 will extend ACE capabilities to entry summary processing through enhanced links to the NTC and its systems. Advanced Targeting capabilities will be expanded providing risk assessment and modeling, data mining, link analysis and pattern recognition capabilities.

*Homeland Security Data Network—HSDN*

The Homeland Security Data Network addresses the Department of Homeland Security's requirement for a system capable of managing and disseminating sensitive and classified information in a secure environment. The HSDN effort will streamline and modernize the classified data transmission capabilities of DHS in order to facilitate communication and collaboration within DHS and with other Federal agencies including the Department of Defense. When implemented, the HSDN will facilitate transmission of data between DHS offices and other networks including the Anti-Drug Network (ADNET), Automatic Digital Network (AUTODIN) and the Defense Message System (DMS). HSDN will provide a scalable infrastructure, capable of supporting the growth and evolution of the DHS mission. CBP's share of this DHS-wide initiative is \$3.2 million in fiscal year 2006.

OTHER TRADITIONAL MISSIONS

Although CBP's priority mission is preventing terrorists and terrorist weapons from entering the United States, we know that we must—and will—accomplish that priority mission while continuing to perform our traditional missions well. Included among those missions are our responsibilities for interdicting drugs, apprehending individuals who enter the United States illegally, regulating and facilitating international trade, and protecting U.S. agricultural and economic interests from harmful pests and diseases.

*Drug Interdiction*

Our anti-terrorism and counter-narcotics missions are not mutually exclusive, and one does not necessarily come at the expense of the other. The initiatives we have put in place to prevent terrorists and terrorist weapons from entering the United States have enabled us to be more effective in seizing other illegal contraband, including illegal drugs. Indeed, one of the first results we saw after implementing ATS for commercial trucks on the land border was a large narcotics seizure from a targeted shipment. And, it is worth noting that the lessons we have learned in our battle against international drug trafficking will help us in the fight against international terrorism.

It would be a grave mistake for drug traffickers and other criminals to misinterpret our focus on terrorism as a weakening of resolve on other fronts. If anything, we have made life even more miserable for drug smugglers as we have intensified our overall presence along America's borders. Our heightened state of security along America's borders has strengthened, not weakened, our counternarcotics mission. As we have added staffing for both inspectors at the ports of entry and Border Patrol Agents between the ports of entry, acquired more inspection technology, conducted more questioning of travelers, and carried out more inspections of passengers and goods in response to the terrorist threat, we have seized greater amounts of narcotics. In fiscal year 2004, for example, we seized almost 2.2 million pounds of illegal drugs, and made some of the largest individual seizures ever recorded by officers safeguarding our borders.

The CBP Office of Air and Marine Operations (AMO) protects the Nation's borders and the American people from the smuggling of narcotics and other contraband with an integrated, coordinated and highly trained air and marine interdiction force. To accomplish the mission, AMO's thoroughly trained interdiction assets are deployed throughout the Western Hemisphere. The Air and Marine Operations Center (AMOC) in Riverside California, provides command, control, communications, and intelligence for those assets by assimilating information from a wide array of sensors.

Effective coordination between inspectors at the ports of entry and agents who carry out investigative activities is essential to the success of our counternarcotics

mission. For that reason, CBP will continue to cooperate closely with special agents from ICE to carry out this mission.

*Apprehend Individuals Entering Illegally Between the Ports of Entry*

CBP's Office of the Border Patrol is specifically responsible for patrolling thousands of miles of Mexican and Canadian international land borders. Its primary task is securing America's borders between official ports of entry by preventing the illegal entry of people, goods, and contraband across our borders.

The Border Patrol relies on agents, enforcement equipment (such as a fleet of specialized aircraft and vehicles of various types), technology (such as sensors and night vision cameras), tactical infrastructure (such as roads and vehicle barriers), and intelligence to carry out its mission. Applied in the correct combination, these resources can effectively deter, detect, monitor, and respond to illegal border crossings, as we have seen in locations such as the San Diego Sector and during operations such as Desert Safeguard.

In fiscal year 2004, the Border Patrol played a key role in safeguarding the United States from the entry of terrorists, criminals, and illegal immigrants. Among the nearly 1.2 million people apprehended by the Border Patrol in fiscal year 2004 were 643 aliens from special interest countries.

CBP will continue to work with other agencies and the Mexican Government to re-institute and increase the operational tempo of the Arizona Border Control Initiative this year. Under this initiative, CBP will aim to substantially reduce the number of illegal entries that occur in Arizona, and, as a result, will reduce the number of deaths that occur as aliens try to cross the Arizona desert. In turn, CBP will increase its ability to apprehend potential terrorists seeking to enter through the Arizona corridor.

*Prevent Individuals from Entering Illegally at the Ports of Entry*

With respect to preventing individuals from entering the country illegally at the ports of entry, CBP continues to stop hundreds of thousands of people a year who are inadmissible into the United States for a variety of reasons, including prior immigration violations, criminal history, or the possession of false or fraudulent documents, and potential terrorists.

We are helped in this effort by our close work with the Department of State to ensure CBP inspectors have the tools they need to verify the identity of visa holders and the authenticity of visas issued by the Department of State. Data on holders of immigrant visas is transferred electronically to ports of entry. When the electronic record is updated to reflect an immigrant's admission at a port of entry, that data is transferred electronically to the Bureau of Citizenship and Immigration Services (CIS) for production of a permanent resident card and creation of the immigrant grant file.

- In fiscal year 2004, CBP processed more than 262 million aliens attempting to enter the United States through the ports of entry; 643,091 were deemed inadmissible under U.S. law. CBP Officers also intercepted: 78,255 fraudulent immigration documents; recorded 1.8 million lookout intercepts; and, apprehended 399 travelers for terrorism or national security concerns. In addition, 19,740 criminal aliens attempting entry were not admitted and 566 stowaways were intercepted.

*Regulate and Facilitate International Trade*

CBP maintains responsibility for regulating and facilitating legitimate international trade. As I mentioned earlier, many of the initiatives CBP implements serve the twin goals of increasing security and facilitating trade. With the right level of industry partnership and the right combination of resources, we can develop innovative solutions that not only protect legitimate trade from being used by terrorists, but also create a better, faster, more productive system for moving goods and people across our borders and thus contributing to U.S. economic growth. The key to the success of this effort is partnerships, and we devote considerable time and effort to dialogue and interact with both large and small enterprises engaged in trade.

We have two major venues for engaging the trade community on an ongoing basis. The Commercial Operations Advisory Committee, created under the Federal Advisory Committee Act, is the primary group that provides advice on the CBP issues. The Committee meets quarterly and holds lively discussions on the full range of critical issues on our common agenda. The COAC was particularly important in helping us implement the Trade Act, and they most recently have worked on a series of measures to implement the Maritime Trade Security Act and to improve the Customs-Trade Partnership Against Terrorism (C-TPAT).

Another key group of our private sector partners is the Trade Support Network (TSN), whose members work on developing specific requirements for the Automated Customs Environment to ensure ACE delivers the critical functionality required by both CBP, the trade and other government agencies. The TSN recently created a Supply Chain Security Committee, which will be the focal point for helping us identify information required to achieve the end-to-end view of the supply chain and identify the parties capable of reporting that data.

As I have indicated, we have continued to work with the trade on these security and trade facilitation matters over the past year, and we will continue to do so in the year ahead. In fiscal year 2004, CBP processed 27.6 million entries of goods, a 7.9 percent increase over fiscal year 2003 levels and processed 23.5 million sea, truck and rail containers entering the United States, an increase of 5.5 percent over fiscal year 2003. CBP also collected more than \$27 billion in revenue in fiscal year 2004: second only to the Internal Revenue Service in the Federal Government sector. CBP officers also completed 2,681 cargo merchandise seizures totaling almost \$233 million and effected 8,586 seizures of counterfeit commodities with a fair market value of \$48.4 million.

To increase our effectiveness and provide national direction over trade concerns, CBP has a National Trade Strategy that focuses on priority trade issues such as revenue collection, intellectual property rights, anti-dumping and countervailing duties, textile enforcement, and risks associated with intentional or unintentional contamination of agricultural products. The goals of the National Trade Strategy are to collect the appropriate duties, protect American businesses and our economic interests from theft of intellectual property and from unfair trade practices, and from the contamination of agricultural products by aggressively targeting high-risk shipments. In addition, CBP is responsible for key deliverables in the Administration's Strategy Targeting Organized Piracy (STOP) initiative, a multi-agency effort to improve protection of intellectual property rights, such as using state of the art analytical techniques to target suspect shipments and using post-entry audits.

#### *Protect U.S. Agricultural and Economic Interests and the Food Supply*

CBP also enforces the laws and regulations pertaining to the safe importation and entry of agricultural food commodities into the United States. The traditional goals of the Agriculture Inspections (AI) program have been to reduce the risk of introduction of invasive species into the United States, protect U.S. agricultural resources, maintain the marketability of agricultural products, and facilitate the movement of law-abiding people and commodities across the borders. Accordingly, inspecting potentially high-risk travelers and cargo is critical to keeping the prohibited items out of the United States, monitoring for significant agricultural health threats, encouraging compliance with regulations, and educating the public and importers about agricultural quarantine regulations. In August, 2004, CBP Agriculture Specialists at the Port of Miami, intercepted and quarantined a shipment of habanero peppers infested with Mediterranean Fruit Fly larvae at and the False Coddling Moth. This shipment was manifested as coming from the Netherlands but was suspected of originating elsewhere. The quick actions of the CBP Agriculture Specialists prevented an incident that could have created severe economic losses to Florida's burgeoning agricultural products industry.

With the creation of CBP, the AI program has expanded its focus to include a new priority mission of preventing potential terrorist threats involving agriculture. Indeed, the threat of intentional introductions of pests or pathogens as a means of biological warfare or terrorism is an emerging concern. To address this threat and to enhance its traditional AI missions, CBP has already begun using the Automated Targeting System, and its collective expertise regarding terrorism and agriculture, to strengthen our ability to identify shipments that may pose a potential risk to our agricultural interests.

In addition, CBP working closely with the Food and Drug Administration (FDA) to implement the Bioterrorism Act to guard against threats to the food supply. The implementation of Phase III of the Act requires that prior notice of importation or intent to import all food to be consumed by humans be provided to both CBP and the FDA. Under the BTA, food products shipped by truck require two hours advance notice, by rail and air four hours and by sea eight hours. Enforcement of the provisions of the BTA are designed to protect the food that is on every table of every American household and to detect potential incidents of bio- and agroterrorism involving food. These efforts have built on our priority and traditional missions to make the food supply more secure, and will be supported in part by the targeting funding sought in the fiscal year 2006 budget.

## CONCLUSION

Mr. Chairman, Members of the Subcommittee, I have outlined a broad array of initiatives today that, with your assistance, will help CBP continue to protect America from the terrorist threat while fulfilling our other important traditional missions. Because of your support, we are far safer today than we were on September 11th. But our work is not complete. With the continued support of the President, DHS, and the Congress, CBP will succeed in meeting the challenges posed by the ongoing terrorist threat and the need to facilitate ever-increasing numbers of legitimate shipments and travelers.

Thank you again for this opportunity to testify. I will be happy to answer any of your questions.

Senator COCHRAN. Thank you very much, Mr. Bonner.

Mr. Aguirre, you may proceed.

## STATEMENT OF EDUARDO AGUIRRE

Mr. AGUIRRE. Thank you, Mr. Chairman. Good morning, Chairman Cochran, ranking member Byrd, and Senator Leahy. My name is Eduardo Aguirre and I am the Director of USCIS. I appear before you to discuss the President's USCIS budget request for fiscal year 2006.

## PROGRESS SINCE MARCH 2003

Yesterday, as was noted, USCIS celebrated its second anniversary. Today I am looking forward to sharing with you our tremendous progress since March 2003. We are delivering on the President's promise to welcome immigrants with open arms, not endless lines. Our remarkable progress is not an anomaly, but rather a strong foundation and a new baseline from which to grow in the coming years. We secure America's promise as a Nation of immigrants by fundamentally reforming our tired system of immigration services.

## FISCAL YEAR 2006 BUDGET REQUEST

USCIS is one of the largest fee-funded agencies in the Federal Government. Our 15,000 employees and contractors serve applicants throughout our broad national and international network. The President's fiscal year 2006 budget will allow us to build upon the progress we have made. The budget includes a total for USCIS of \$1.854 billion, \$80 million in appropriated funds and \$1.774 billion in fees. This budget will allow USCIS to process over 7 million immigration benefit applications.

We note that fiscal year 2006 will be the final year of the President's 5-year plan for backlog elimination. Our budget includes a total of \$100 million to support backlog elimination efforts as well as improvements in applications processing. This brings the 5-year total for this aggressive initiative to \$560 million. We are on track to achieve the President's backlog elimination mandate.

As Will Rogers eloquently stated, even if you are on the right track you will get run over if you just sit there. Thus, we have taken and continue to take a hard reengineering look at the way we currently conduct our business. Since my appointment and confirmation as Director of USCIS, our leadership team has continually reviewed our processes, identified opportunities for streamlining and further improvement, and implemented meaningful changes.

Let me plainly state that as we improve our ways we are committed to never compromise national security in an effort to increase productivity. From day 1, USCIS established three crystal-clear priorities: One, eliminate the immigration benefit applications backlog; two, enhance national security; and three, improve customer service. Let me briefly touch upon progress made on each of these priorities.

#### BACKLOG ELIMINATION

Eliminating the backlog. Operationally, fiscal year 2004 was truly an outstanding year for USCIS and we continue the momentum so far in fiscal year 2005. We successfully reduced the backlog to 1.365 million cases, down from a high of 3.8 million cases just a year ago in 2004. We increased overall completions by 21 percent processed, met, or exceeded cycle time targets in 15 of 16 major form types. We completed 109,000 asylum cases in fiscal year 2004, a 20 percent increase, and also 53,000 refugees were admitted to the United States in fiscal year 2004, an 86 percent increase.

#### NATIONAL SECURITY MISSION

Ensuring national security as well as preventing and detecting fraud are essential elements of our mission. Our newly created Fraud Detection and National Security Unit developed a joint anti-fraud strategy with ICE. We enhanced our background check process and we share information with key law enforcement and intelligence agencies.

#### IMPROVEMENT IN CUSTOMER SERVICE

As an immigrant who once passed through the old INS system, I insist that we treat those who come before USCIS with dignity and respect. That brings me to improving customer service. Therefore, we have promoted a customer service culture and expanded many of the services available to customers online and by phone. Electronic filing now supports 50 percent of the total volume of benefit applications.

InfoPass, our web-based system, enables applicants to go online in 12 different languages to schedule appointments. No more endless lines outside our immigration offices. We expanded phone services and access to customer's case status information via our website.

Finally, in the past year USCIS has naturalized more than 7,000 military service members. This past October, I personally led a USCIS team to Afghanistan and Iraq and launched overseas naturalizations to our military.

#### PREPARED STATEMENT

In summary, although we have a long ways to go before our destination, I note that we are on the right track and moving forward to make USCIS an exemplary United States Government agency. This concludes my opening remarks, prepared remarks. I thank you for your support and for the invitation to testify before this subcommittee, and of course would be happy to answer your questions. Thank you, sir.

[The statement follows:]

PREPARED STATEMENT OF EDUARDO AGUIRRE, JR.

Good afternoon Chairman Cochran and Ranking Member Byrd and Members of the Subcommittee. My name is Eduardo Aguirre and I have the honor of serving as the first Director of U.S. Citizenship and Immigration Services, within the Department of Homeland Security.

We are a welcoming Nation, and the hard work and patriotism of our immigrants has made our Nation prosperous. Since USCIS was established in March of 2003, we have made tremendous progress, which I will share with you today, to deliver the President's vision of "welcoming immigrants with open arms . . . not endless lines." It is my sincere belief that the progress we have made in the past year is not an anomaly, but rather a strong foundation and a new baseline from which to grow.

USCIS will continue to secure America's promise as a Nation of immigrants by providing accurate and useful information to our customers, granting immigration and citizenship benefits, promoting an awareness and understanding of citizenship, and ensuring the integrity of our immigration system. Our vision is to strengthen America's future by becoming a customer-focused innovator of benefits processing, a catalyst for citizenship education, instruction and outreach, a recognized and credible source of useful information, and a leading contributor to the security of the United States.

USCIS has established three core values: integrity, respect, and ingenuity. We shall always strive for the highest level of integrity in our dealings with our customers, our fellow employees, and the citizens of the United States. We will also demonstrate respect in all our actions to ensure that everyone we affect will be treated with dignity and courtesy regardless of the outcome of the decision. And we will also use ingenuity, resourcefulness, creativity, and sound management principles to strive for world-class results.

USCIS is one of the largest fee-funded agencies in the Federal Government—charging fees for a variety of immigration benefits from individuals seeking to enter, reside, or work in the United States. Therefore, the actual cash flow for our business operations, including a network of 250 local offices, Application Support Centers, Service Centers, Asylum Offices, National Customer Service Call (NCSC) Centers, Forms Centers, and Internet portals, varies from year to year with the number of immigration benefit applications received.

In any typical work day, our workforce of 15,000 (one-third of whom are contractors) will:

- Conduct 140,000 national security background checks.
- Receive 100,000 hits to our Internet website ([www.uscis.gov](http://www.uscis.gov)).
- Answer phone inquiries from 80,000 callers at four National Customer Service Centers.
- Process 30,000 applications for an immigration benefit.
- Answer in-person inquiries from 25,000 visitors to information counters at 92 local offices.
- Issue 7,000 green cards.
- Capture 8,000 sets of fingerprints at 130 Application Support Centers.
- Welcome 3,000 new citizens.
- Welcome 3,000 new permanent residents.
- Welcome nearly 200 refugees from around the world.
- Help American parents adopt nearly 80 foreign-born orphans.
- Process the naturalization application of 50 individuals serving in the U.S. military.
- Grant asylum to 80 individuals already in the United States.

USCIS has established three priorities: (1) enhancing national security, (2) eliminating the immigration benefit application backlog, and (3) improving customer service. In our second year of operations, we have successfully reduced the backlog to 1.5 million cases (down from a high of 3.8 million cases in January 2004), expanded electronic filing to support 50 percent of the total volume of benefit applications, expanded InfoPass (a USCIS Web-based system that enables the public to go online to schedule appointments), expanded phone services to allow round-the-clock access via automated means, expanded access to customers' case status information via the USCIS website, and created the Fraud Detection and National Security Unit to work closely with the appropriate law enforcement entities in responding to concerns relating to aliens who may pose a threat to national security or public safety.

The President's fiscal year 2006 budget will allow us to build upon the progress we have made in the past year. The budget includes a total for USCIS of \$1.854

billion, \$80 million in appropriated funds and \$1.774 billion in fees. The fiscal year 2006 budget will allow USCIS to process over 7 million immigration benefit applications and is the final year of the President's 5-year plan to achieve a 6-month cycle time standard or less for all immigration benefit applications at every USCIS office, including a total of \$100 million to support backlog elimination efforts as well as improvements in application processing. This brings the 5-year total for this aggressive initiative to \$560 million.

The USCIS fiscal year 2006 budget also includes two important fee-related legislative proposals. One proposal involves the removal of a statutory cap on the Temporary Protected Status processing fee. This proposal will allow the fee to be adjusted above the current \$50 to recover full costs, subject to a fee review, similar to the way other immigration benefit application fees are currently set. The other proposal is a customer service enhancement that authorizes expansion of premium processing service to non-employment based applications and petitions. The Department is currently authorized to collect a \$1,000 premium processing fee, in addition to the normal processing fee, for employment-based applications and petitions. This proposal would authorize the Secretary of Homeland Security to set the premium processing fee for certain non employment-based applications and petitions, such as travel documents, advance parole, employment authorization, re-entry permits, fiancé adjudications, etc., not to exceed \$1,000, and in excess of \$1,000 for the investor visa (EB-5) program.

#### *Eliminating the Backlog*

Although we are on track to achieve the President's backlog elimination mandate, we fully realize that funding alone will not enable us to achieve this goal. As Will Rogers so simply stated, "Even if you're on the right track, you'll get run over if you just sit there." Thus, we have taken, and continue to take, a hard look at the way we currently conduct our business. This commitment is not just one of words, but one of action. Since my appointment and confirmation as Director of USCIS, I have worked closely with the leaders in USCIS to continually review our processes, identify opportunities for streamlining and further improvement, and to implement meaningful change. Let me assure you that USCIS will never compromise national security in an effort to increase productivity.

In the past year, USCIS forwarded to the Congress a Backlog Elimination Plan that outlines the roadmap to achieve the President's mandate. We will continue to provide the Congress with quarterly progress reports on our Backlog Elimination status and achievements.

Fiscal year 2004 was truly an outstanding year for USCIS. USCIS increased overall completions by 17 percent over the fiscal year 2003 volume and met and/or exceeded cycle time targets in fifteen of sixteen major form types. In addition, USCIS completed a total of 109,000 asylum cases in fiscal year 2004, representing a 20 percent increase in productivity from the previous fiscal year, when it completed 91,000. USCIS also worked steadily with its refugee program partners to successfully meet refugee admissions levels designated by the President while ensuring that the integrity and security of the program remained intact. USCIS officers conducted refugee status interviews in 50 countries around the world and interviewed more than 70,000 refugee applicants of at least 65 different nationalities. As a result of these efforts, almost 53,000 refugees were admitted to the United States during fiscal year 2004, an 86 percent increase over the previous year's admissions.

USCIS will increase its focus on Information Technology through an enterprise-wide transformation effort to ensure that long-term backlog elimination goals are sustained, customer service is improved, fraud detection and national security capabilities are enhanced, and a technology environment is deployed to support new processes and workflow aligned with the DHS mission and the Presidential mandate for eGov standards. USCIS is currently undergoing an infrastructure upgrade of its District and Service Center operations, upgrading its web presence environment, and developing a new integrated case management system to ultimately operate in a paperless adjudication environment.

#### *Ensuring National Security*

USCIS understands that ensuring national security and preventing and detecting fraud are essential elements of its mission. As such, our newly established Fraud Detection and National Security Unit (FDNS) developed a joint anti-fraud strategy with Immigration and Customs Enforcement (ICE), hired and trained nearly 100 anti-fraud officers, and is in the midst of implementing an anti-fraud initiative throughout the United States. The FDNS is also leading the enhancement of USCIS' background check process, which is aimed at identifying applicants, beneficiaries, and petitioners who pose a threat to national security and public safety prior to

granting them immigration benefits. The FDNS is also leading USCIS' information sharing initiative with key law enforcement and intelligence agencies.

The establishment of a Refugee Corps with an expanded management support structure will provide a strong and effective overseas refugee processing program that will more efficiently identify inadmissible persons and those who are of national security interest without compromising the U.S. Refugee Program's (USRPs) humanitarian objectives. A Refugee Corps will ensure responsiveness to USRP commitments and goals, while greatly reducing the need to draw on scarce domestic program resources. It will also ensure the quality and consistency of refugee adjudications and improve the detection of refugee application fraud and the identification of security concerns relating to refugee admissions.

USCIS also implemented the Safe Third Country Agreement on Asylum with Canada to help strengthen public confidence in the integrity of the immigration system and ensure that all asylum seekers will be heard, that they will receive procedural safeguards, and that they not be removed until either Canada or the United States has made a determination on the protection claim, in accordance with national laws implementing treaty obligations.

#### *Improving Customer Service*

The Office of Citizenship continues to focus on providing information to immigrants at two key points in their journey towards citizenship: when they first become Permanent Residents and later when they are ready and eligible to begin the formal naturalization process. In the past year, the Office of Citizenship introduced an orientation guide entitled "Welcome to the United States: A Guide for New Immigrants." The guide, which will be available in 10 languages in fiscal year 2005, contains practical information to help immigrants get started in the United States, and provides information to assist immigrants in the civic integration process. The Office of Citizenship also held a series of focus groups across the United States during the spring of 2004 to hear directly from local communities about their strengths, gaps, and needs in the areas of immigrant integration and citizenship preparation. The results of these focus group discussions were published in a report called "Helping Immigrants Become New Americans: Communities Discuss the Issues."

Additionally, we have been examining the standard of knowledge in the current citizenship test to ensure that prospective and new citizens know not only the facts of our Nation's history, but also the ideals that have shaped that history. We also are working to standardize testing procedures in an effort to ensure equitable and more uniform results. Currently, a candidate in Los Angeles is, in all likelihood, not tested the same way or asked the same questions as a candidate taking the same exam on the same day in Boston.

We do not want to make the test more difficult. We do not want to make it less difficult. We want to make it more meaningful in a way that does not have an adverse impact on any particular group of applicants. Therefore, we will carefully pilot test the revised English, history, and government tests before implementing them. And we will consult with our stakeholders to solicit their input, as we have done throughout the process. Once the test development is done, the Office of Citizenship will coordinate the creation of educational materials to complement this important initiative.

Our plan is to begin implementing the new test and testing process in 2007. Given the importance of the ultimate benefit for those tested—U.S. citizenship—this process is not one that can or should be rushed. We are committed to improving the current process and to improving it in the right way.

In our commitment to modernize and enhance the delivery of immigration services, InfoPass was launched in Miami in June of 2003. InfoPass is a free, easy and convenient alternative to waiting in line. It allows USCIS customers to go on-line and use an Internet-based system to make an appointment to speak with an Immigration Information Officer at a time that is convenient for the customer. InfoPass is now available for customers at all USCIS District and sub offices.

Other conveniences available on [www.uscis.gov](http://www.uscis.gov) include "E-Filing" for certain immigration applications, including the renewal and replacement of "green cards," (Form I-90). E-Filing provides a quick, easy and convenient way for customers to complete, submit, and pay fees for petitions and applications at any time, from any computer with Internet access. As a further time saver, the USCIS Web site is now set up to accept credit cards for the payment of application fees. To date, USCIS has received more than 250,000 applications through its E-Filing system. E-Filing now supports form types that account for 50 percent of the total volume of benefits applications USCIS receives annually. During fiscal year 2005, USCIS plans to combine E-Filing with the Lockbox program to further streamline our internal processes. E-Filing will also play a key supporting role in implementing Premium Proc-

essing for additional form types; the newly enacted H1-B/L-1 Visa Reform Acts; and an electronic adjudication initiative.

Additionally, the public is encouraged to use the Internet to check the status of applications filed with any of USCIS' Service Centers. Our Case Status Service Online, available in English and Spanish, allows customers who have a receipt number for an application or petition filed at a USCIS Service Center to check the status of their pending case online through the USCIS website (USCIS.gov), or by calling the toll-free telephone number of our National Customer Service Center. The Case Status Online system offers customers the option of establishing a portfolio of up to 100 cases that can be checked through a single login 24 hours a day, 7 days a week. Customers can also elect to have USCIS automatically send an email informing them of any change in status of a pending case.

In the past year, USCIS has responded to over 11,000,000 queries for verification of immigration status. USCIS provides immigration and employment authorization status information to over 126,000 government and private sector users. By providing the best possible verification services to thousands of agencies and employers, USCIS saves the Government money by ensuring that only eligible aliens receive public benefits. In addition, an employment verification pilot program authorized in 1996 and reauthorized in 2004, helps to ensure that jobs are available only to workers authorized to accept employment in the United States.

As you are aware, the National Defense Authorization Act for fiscal year 2004 authorized overseas military naturalizations. In the past year, USCIS has naturalized more than 7,000 military service members both in the United States and overseas, and posthumously naturalized 39 service members who died in service to the United States.

Finally, USCIS committed itself to the global effort to recover from the earthquake and tsunami by announcing temporary relief measures for those individuals who are unable to return to their home country due to the destruction and humanitarian crisis in Southeast Asia. USCIS is expediting the processing of certain immigration benefit applications, including requests for advance parole and relative petitions for minor children from the affected areas. USCIS also is more readily approving applications from visitors from the tsunami-affected countries who requested a change or extension of their nonimmigrant status.

This concludes my prepared remarks. I thank you for the invitation to testify before this committee and I would be happy to answer any questions.

**Senator COCHRAN.** Thank you, Mr. Aguirre.

#### ALTERNATIVES TO DETENTION

This morning National Public Radio did a report on Alternatives to Detention and the program run by the Immigration and Customs Enforcement agency using ankle bracelets to keep up with and track noncriminal aliens as they await the outcome of their immigration cases being considered and disposed of. What is the utility of this method and do you consider it more humane, more efficient, and less expensive than detaining through forcible imprisonment, or whatever other devices you have, those who you know may not be legally entitled to be in our country? Mr. Garcia?

**Mr. GARCIA.** Thank you, Mr. Chairman. A timely topic as there is a \$5.4 million enhancement for that program in the 2006 request. We right now have eight sites where we do Alternatives to Detention and we plan to expand that two more for a total of ten.

This is a program, Mr. Chairman, that does exactly what it says. It is an alternative to detention. These are illegal aliens who would otherwise be subject to incarceration. The program is in three steps: a 30-day period with an ankle bracelet, a monitoring and reporting requirement. If the alien complies, the bracelet comes off and then it is telephonic interviews and home visits. After an additional period, it becomes only telephonic interviews.

It is extremely cost-effective, estimated at a quarter of the cost of detention space. It provides assistance to the aliens in the proc-

ess, linking them with pro bono services, et cetera. And it asks for responsibility on the part of the alien, who has voluntarily opted into this program, and that is an important point. This is a voluntary program. But it asks for responsibility on the part of the participants and if they show that, then the conditions become less onerous over time.

#### USE OF RADIATION MONITORS

Senator COCHRAN. Mr. Bonner, we understand too the importance of upgrading technologies in the Border Patrol area, and you highlighted that in your statement. What is the success that you anticipate from using radiation monitors? Is this a technology that has been proven? I ask this in the context with our experience in Iraq, where the weapons inspectors were using radiation monitors there and David Kay made a point of saying you can deploy these monitors, but after the sand and the heat and the other influences of nature take place you might have a useless piece of equipment there in the desert. Have you had any experiences similar to that at CBP?

Mr. BONNER. Well, first of all, the main thing that we have going in terms of detecting against a nuclear device or special nuclear materials is a combination of technology that we would deploy and we are deploying at our ports of entry principally. So there is where we have radiation portal monitors. We have completed the first two phases, which is the International Mail Facility, so every package that comes in is screened. The International Air Express Consignment Facilities are completed. We have substantially deployed well over 200 portal monitors on our northern border ports of entry with Canada. We are in the process of now deploying a significant number along our southern border ports of entry with Mexico, and we have started deployment at some of our major seaports.

We have a long way to go here. But the question is are they effective. Well, you need a combination of technology. Radiation portal monitors are highly sensitive to both gamma and neutron detection. In other words, you can have, without getting into sort of the classified area here, you can have a fair degree of confidence in the fact that you are going to detect radiation. In fact, since we started deploying the radiation portal monitors—and these are large things at our ports of entry, through every—not just commercial truck, every passenger vehicle that comes through—since we have started deploying them, we have resolved over 10,000 radiation hits.

The good news to tell you is that those radiation hits turned out to be negative. In other words, we resolved them to be naturally occurring radiation sources or radioactive material consistent with the shipment of goods. That might be, by the way, a shipment of tiles, which very frequently emits radiation that reads for thorium and so on.

So this is not the only thing, though. We combine that with our targeting system, and our NII equipment, that is our large-scale X-ray scanning machines, as well as isotope identifiers and other personal radiation detector equipment, to give us a combination of resources that improves our ability to detect against a dirty bomb coming across our border and/or potentially a nuclear device, which is obviously of the most momentous consequence one can imagine.

We have found them to be effective. Now, we are looking for—we are always looking for better technology to detect against this issue.

#### SIX-MONTH AVERAGE FOR PROCESSING BENEFITS APPLICATIONS

Senator COCHRAN. Mr. Aguirre, you mentioned reducing the backlog of your benefit application cases down to 1.3 million cases from a high of 3.8 million in January of 2004. I know you have devoted special funding in this area, too. Once you do not set aside dollars to bring down the backlog, are you going to be able to maintain this 6-month average of processing applications?

Mr. AGUIRRE. Senator, I am certain of that. I am certain that we are going to meet the commitment to eliminate the backlog by September 2006. In fact, I will be surprised if we do not beat that by a little. And in the process, we have re-engineered all our processes so that not only are we eliminating the backlog and perhaps put it below a cycle time of 6 months, but also making sure that we are taking care of the applications that are coming in day in and day out.

So once this 5-year commitment expires, I do not feel that we are going to need to go back to any appropriated funds for this particular endeavor.

Senator COCHRAN. We have a vote that is occurring on the floor of the Senate right now. But before we cut off the right of any Senator to ask questions, I am going to proceed and recognize Senator Byrd and Senator Leahy both if they wanted to ask questions before we go vote.

Senator BYRD. Mr. Chairman, thank you for your courtesies always.

First, let me ask unanimous consent that a letter from me to the Honorable Michael Chertoff be included in the record following my earlier statement.

Senator COCHRAN. Without objection, it is so ordered.

#### ANTIDUMPING/COUNTERVAILING DUTY COLLECTIONS

Senator BYRD. Thank you.

Commissioner Bonner, on December 17, 2004, Customs and Border Protection (CBP) issued its regular annual report on the Byrd Amendment trade law. The annual report describes how hundreds of millions of dollars in duties are not being collected by Customs, and the agency has been unable to explain why it cannot collect these funds.

In fiscal year 2003, the agency failed to collect \$130 million in duties owed to the United States under the U.S. anti-dumping and countervailing duty laws, and CBP failed to collect an additional \$260 million in fiscal year 2004. The majority of that \$390 million is the result of uncollected duties on goods imported from China. The conference report accompanying the Department of Homeland Security Appropriations Act for fiscal year 2005, which was enacted in October 2004, included language that directed Customs and Border Protection to submit a report to the House and Senate Appropriations Committees by January 15, 2005, on the implementation of recommendations that were made by the U.S. Treasury Depart-

ment's Inspector General concerning the Customs and Border Protection's implementation of the Byrd Amendment trade law.

The Senate Appropriations Committee has not yet received that report. Why is this problem of noncollection growing, and what are you doing to address it? Finally, do your efforts respond to the recommendations of the Treasury Inspector General?

Mr. BONNER. Let me first of all say, Senator Byrd, that we are committed, I am personally committed, to improving our collection efforts. I am troubled that we used to say when we were settling cases that we were leaving too much money on the table here that is not collected. It is not accurate to say that we are unable to explain what the problem is. I think we have a pretty good understanding of the problems and we have taken some steps to improve our collections of antidumping and countervailing duty assessments. But let me just identify a couple of ways where we are moving forward. One of the problems in terms of collections was the insufficiency of continuous duty bonds for these kinds of high-risk shipments. These tend to be, by the way, agriculture and seafood products, a lot of it coming from China, but some other countries, and the continuous duty bonds were not nearly sufficient when the ultimate duty assessment was made by the Department of Commerce.

So we have taken steps to raise the continuous duty bonds on goods that are particularly those types of goods that are or are very likely to be subject to antidumping duties, a final order.

There were insufficient single entry bonds. In other words, we did not have recourse. So we are more diligent. We now have something that is very close to real-time monitoring of shipments that are subject to preliminary orders of commerce or potentially high-risk shipments of goods, and are raising the single entry duty bonds to higher levels that are more consistent with what we expect the ultimate duty assessment to be.

By the way, just to let you know that we have taken not just those two steps to increase the bond coverage, but we have a better mechanism now for potentially identifying circumvention of the antidumping duties. By the way, as you can imagine, there is all sorts of circumvention. It is everything from fraudulent misdescribing of the goods, so that it is not a good that was subject to an antidumping order—we have had that, by the way, with respect to catfish shipments mislabeled as groupers. I know you are interested in this issue, Mr. Chairman. But we have had that.

We have had sham companies that are set up and so forth. So we have ratcheted up our enforcement effort through our Commercial Enforcement Division and, frankly, are working very closely with ICE in nine significant and hopefully potential criminal prosecutions, but criminal investigation of fraud. We think that it would be very important to bring additional cases in this area for its deterrent value.

We are better coordinating with the Department of Commerce so that we are actually in communication with them before even a preliminary order comes out and we can take some steps.

#### DEFAULT OF A SURETY COMPANY

We have discussed with the Treasury Department one other issue, and that was actual default of a surety company, which was about \$100 million of the total failure to collect. This was a surety company that had been approved by the Treasury Department and it defaulted on its surety bond obligations. So we are working with Treasury to make sure that the surety companies that are approved by the Treasury Department to write customs bonds are financially viable when payment time comes up.

#### INITIAL PRELIMINARY ORDERS IN LIQUIDATION

So we have taken all these steps. Now, there is a lag time, as you know, between the initial preliminary orders in liquidation. So it is going to take some period of time before we see substantial results here, but I do think we have taken some very important steps to identify the problem and take concrete actions that are going to improve, and I hope substantially improve, our collection rate.

Senator BYRD. Mr. Commissioner, I am heartened by your response. I know that you are very much alert to the problem. It is complex, it is difficult, and I compliment you on the way that you are working with other agencies and departments to deal with this problem. I thank you. I urge you to continue to work on it and to work even harder. I do appreciate your efforts.

Mr. BONNER. Thank you, Senator.

Senator BYRD. Mr. Chairman, let me close, because we are up against the voting situation over there. Incidentally, I have cast over 17,000 votes, but I do want to cast some today. I am going to submit the remainder of my questions, if I may, to be answered for the record.

I thank all the witnesses.

Senator COCHRAN. Thank you, Senator, for your contribution to the hearing.

#### ICE HIRING IN FISCAL YEAR 2006

Senator LEAHY. Just very quickly and I will put most of my questions in the record. To Assistant Secretary Garcia: When ICE was here last year it had severe budget problems, a hiring freeze. Does the fiscal year 2006 request bring ICE back to fiscal solvency? Will you be lifting the hiring freeze. If not, when?

Mr. GARCIA. Thank you, Senator Leahy. You are correct, we were here last year, we had a hiring freeze. We have taken a number of steps to address that. Working with the Department, we continue to do that. We need to take further steps. Secretary Loy testified a couple of weeks ago to that effect.

The 2006 as we have proposed it will move us forward. We will be hiring in 2006.

Senator LEAHY. All these temporary people who have been there for 3 or 4 years, does that mean they can be looking for permanent positions now?

Mr. GARCIA. That is certainly our intention, Senator. I know that there are a number of those temporary positions at our Law Enforcement Support Center up in Burlington. As we have discussed,

I only see the role of that Center expanding and becoming more important under our homeland security mission.

Senator LEAHY. Does the budget cover what you need or are you going to need reprogramming?

Mr. GARCIA. Hard to answer because, as we go along I will look at that. I have not been able to do that yet, obviously, because of the lack of clarity on some of the budget issues and the challenges we have been facing. But it is an issue that we consider a top priority.

#### BORDER PATROL AGENT STAFFING INCREASES

Senator LEAHY. Mr. Bonner, I mentioned before the budget only asks for 10 percent of the mandated agents. You think we need further agents on the northern border.

Mr. BONNER. Well—

Senator LEAHY. Because you are only asking for 10 percent of what Congress mandated.

Mr. BONNER. As you know, Senator, I am in full, violent support of the President's budget request, which requests 210 Border Patrol agents in addition to, of course, replacing attrition.

Senator LEAHY. But none of them for the northern border?

Mr. BONNER. Well, you know, you did note—

Senator LEAHY. We needed more.

Mr. BONNER. You did note and let me note that we had 360 Border Patrol agents on the northern border for the entire border with Canada on 9/11. On March 1, 2003, that was up to about 500.

One of the first actions I took was to direct Border Patrol to meet the 1,000 goal, which they did actually in fiscal year 2003.

Senator LEAHY. Do we need any more—this is what the bottom line is. Do we need any more on the northern border? Do we have enough on the northern border today?

Mr. BONNER. You mean beyond what we have in the request?

Senator LEAHY. No, no. Do we have enough on the northern border with the number we have today. There is no request for the northern border. It is 210, 10 percent of what we mandated. But that is not for the northern border.

Do we have enough on the northern border? It is an easy answer, yes or no.

Mr. BONNER. We do not have enough agents. We do not have enough technology to give us the kind of security we need on the northern border.

Senator LEAHY. I am just a lawyer from a small town in Vermont. I do not understand. Is that a yes or a no?

Mr. BONNER. I am just a lawyer from a small town in Kansas, so—

That moved to California at some point.

Senator LEAHY. Here we are in the big city. Is it yes or no?

Mr. BONNER. Well, we need more agents—

Senator LEAHY. Help me out here.

Mr. BONNER. We need more agents. But look, I think it is the right combination of people and technology, and essential to this is the American Shield Initiative. The fiscal year 2006 budget includes \$81 million for technology, for more helicopters, and for UAV's for the Border Patrol. We need to do a smarter and a better

job. I think we can do that. The President's request is for 210 more Agents. I do not know that they are necessarily earmarked all for the southern border. If you are asking me, I think probably most of them will go there.

Senator LEAHY. We should have this discussion in greater detail, because I am not happy. I do not think we are getting the number, we are certainly not getting anywhere near the number that the Congress mandated.

#### I-91 CHECKPOINT

I also want to have your staff and mine talk about this checkpoint you have on Interstate 91 in Vermont, a long, long distance from the border, that just stops honest Vermonters that have been driving back and forth there forever and ever.

You had people—aliens that have been there for ever and ever, they keep getting stopped over and over and over again. There is a real suspicion of some racial profiling people who have honestly, working in New Hampshire and Vermont for years and years, and just continuously get stopped. They continuously get asked the same questions as they got asked the day before.

The irony is, of course, if anybody wanted to circumvent that they would just go out one of the back roads, and the agents would never find them.

So let our staff talk about that. It is creating, both in the "Live Free Or Die" State of New Hampshire and the former independent republic of Vermont, it is creating a bit of a concern. It is not going to do anything to stop people from coming across the border, because they are not the ones getting stopped.

Mr. BONNER. Could I briefly respond, though? That is that part of the strategy is not putting everything on the line itself. There has to be a second line of defense. It is not that the checkpoint is necessarily going to—that terrorists that might come across the Canadian border into the United States. Part of the strategy of a checkpoint is lateral enforcement from the checkpoint. It gives us a second line of defense.

Senator COCHRAN. Senator, we have a vote.

Mr. BONNER. It is going to be important. It is an important part of the overall strategy to get better control of our borders, something you and I have a common interest in.

Senator LEAHY. Yes. But when I have to stop and prove my identification and I am a U.S. citizen, I know this is helping somebody. It is sort of like security stopping Ted Kennedy a dozen times from going on a plane because he is seen on a terrorist list and the government does not know how the hell to get him off it.

Thank you.

Mr. BONNER. Thank you, Senator.

Senator COCHRAN. This Senate hearing will stand in recess until we go vote and we will return to resume our questioning of the witnesses. We appreciate your indulgence.

#### NEW OFFICE OF SCREENING COORDINATION AND OPERATIONS

Thank you very much for your patience. I apologize for having to go vote on the floor of the Senate during our hearing.

The President's budget proposes to create the Office of Screening Coordination and Operations within the Border and Transportation Security Directorate. How do each of you see this new office contributing to the Department's ability to implement the 9/11 Commission recommendation? Mr. Bonner, let us start with you.

Mr. BONNER. Well, I would say this, that certainly there will be some benefits from thinking through this issue of screening, particularly for the terrorist threat. So I expect that it will assist in terms of coordinating those efforts, understanding that there are fundamentally very different screening opportunities that are presented depending upon which homeland security agency you are talking about.

We have the broadest law enforcement authority of any law enforcement agency in our country, Customs and Border Protection, and that is because we have the full authority to, without cause or suspicion, ask questions of anybody who is crossing our border or entering our country through our official entry points and certainly to arrest anybody who is not. Secondly, we have the broad customs search authority, which is the broadest search authority under the Fourth Amendment of our Constitution, which permits us to search and inspect luggage of everybody, by the way, U.S. citizens, non-citizens, without cause, warrant, or suspicion.

So we have broad authorities, which we are using right now in terms of being as intelligent as we can to perform that priority mission of preventing terrorists from entering our country. But I think nonetheless the Screening Coordination Office should, I believe, play a helpful role.

#### VETTED TRAVELER PROGRAMS

There is another area, just briefly let me touch on it, Mr. Chairman, where the Screening Coordination Office I think could play a valuable role. That is, there are in place right now essentially what I call trusted, vetted traveler programs. Customs and Border Protection vastly expanded the Nexus program at the Canadian border. We now have almost 80,000 people that we have vetted. That is not only taking biometrics from them; that is a personal interview to make sure that they pose no terrorist threat or smuggling threat. We have a similar program that we inherited from INS, the SENTRI program at the Mexican border. We have FAST, the FAST program for commercial truckers from both Mexico, coming from Mexico or Canada, and so forth.

We have mature actual programs. They are not pilots. We have enrolled about 200,000 people into these programs. But on the other hand, TSA is piloting a registered passenger program and so forth. You need to look at the issue of what are the biometrics that should be collected from each person that is enrolled or is going to be considered to be a trusted or registered individual for receiving some benefits. You need to look at the biometric you use to identify them when they appear at the border port of entry or when they appear at the airport if it is a TSA issue and the like, and so forth.

I think the Screening Coordination Office could play a very important role in getting those policy decisions, and they are policy decisions, made and implemented in the most visionary way possible, so that at the end of the day somebody that is vetted in for

one of these programs, let us say for the Nexus program, would be cleared in for other kinds of trusted passenger programs.

That is a big idea and I think the Screening Coordination Office can and I hope will play a valuable role in harmonizing, if you will, the technology issues for these different kinds of trusted, vetted, or registered passenger or traveler programs.

Senator COCHRAN. Mr. Garcia, this was part of the presidential commission, the National Commission on Terrorist attacks, the 9/11 Commission's, recommendations, that there be a centralized office created, designed to provide comprehensive screening across, addressing common problems and setting common standards in a systemwide operation. Do you see this office contributing to the Department's ability to implement this recommendation?

Mr. GARCIA. Thank you, Mr. Chairman. Yes, absolutely. Again, you tie it back to the 9/11 Commission report. I think you also look at the staff report on terrorist travel, the recommendations in there, incredibly important work, the conclusion that terrorist travel is at least as important an area or vulnerability as terrorist financing. This center certainly moves us forward in addressing those vulnerabilities. ICE will play a role, as we will CBP and CIS, in working with that center. For example, as we discussed, people who are screened who are turned back we now can follow through with associates present in the country by looking at our systems and our data.

We can use our forensic document lab to examine their travel documents and provide bulletins and intelligence analysis to the front-line folks by analyzing that travel documentation that terrorists or other national security threats use to try to enter the country.

So certainly centralization of the screening function, and as importantly I think what will flow from that within the Department and within the agencies.

Senator COCHRAN. Mr. Aguirre, does this affect your agency and how are you cooperating in this effort if so?

Mr. AGUIRRE. Mr. Chairman, it does affect our agency because, of course, we are all in the immigration business to one extent or another. Even though we are not on the enforcement side, we are involved in the biometric of, capturing biometrics of millions of applicants year in and year out, and those biometrics of course are oftentimes being used for law enforcement purposes where necessary.

I actually view the issue from a service standpoint, in contrast to the enforcement standpoint. Any time you can have consistency and coordination of the identification process and the biometrics and so on, it can be an expedited opportunity for those who do not have hits or do not have any reason to feel the need of scrutiny.

So I think it would expedite the processing of the 97, 98 percent of those individuals that cross in and out. As you probably know, USCIS is the organization that generates many of the cards that are being used today. For instance, the Green Cards are produced by us. We have put in those Green Cards—permanent residency card—any number of biometric data for our colleagues on the enforcement side to be able to work with.

## OFFICE OF SCREENING COORDINATION AND OPERATIONS MISSION

Senator COCHRAN. Commissioner Bonner, should the Office of Screening Coordination and Operations have actual operational authority for various screening programs, as proposed, or should it focus on the integration and coordination function necessary across so many programs involved in the activity?

Mr. BONNER. I would say with respect to operations, you are talking about the actual gathering of biometric data on potential enrollees. You are talking about the actual interview that we do and have done with a couple hundred thousand people. I think that probably should be an operational function left with the agency that is ultimately responsible for and going to be held accountable for whatever benefit is being given.

If you took just the border issue in terms of our screening at our ports of entry, international airports, land border, ultimately CBP is operating these programs right now—the NEXUS program, the SENTRI program. It may well make sense to leave that operation at the agency level, in the agency that actually is responsible.

Now, having said that, let me say we have a new Secretary of Homeland Security, Mike Chertoff. By the way, I think Secretary Chertoff is somebody who, based upon my past experience, is going to be an extraordinary Secretary. He ultimately makes the decision, not me, as to how you make this distinction between what operational functions should remain at the agency level and what, if any, systems functions should be performed by the Screening Coordination Office.

I do not think that has been decided. Those are my views subject to, of course, further guidance from Secretary Chertoff.

Senator COCHRAN. Director Aguirre, what is your take on that? Just from an opposite point of view, should the Citizenship and Immigration Services programs, screening programs, be moved to the Office of Screening Coordination and Operations?

Mr. AGUIRRE. Mr. Chairman, I am not sure that in the vacuum of this hearing I can give you an accurate answer. I think the issue of operations and the issue of "who is responsible for what" needs to be weighed in the context of is it working well/is it not working well/and how can it work better. So within Homeland Security I think we have a number of components that can always stand improvement, and to determine here and now what is better or worse, I would be ad libbing.

## INTELLIGENCE REFORM ACT/BORDER PATROL STAFF INCREASES

Senator COCHRAN. Mr. Bonner, this request does not include resources to fulfill the new Intelligence Reform and Terrorism Prevention Act authorizations. Were the new authorizations considered or was the bill enacted into law too late to be considered when the fiscal year 2006 budget process was completed inside the administration?

Mr. BONNER. That is a good question. I need to probe my memory on it in terms of the time line. Obviously, as you know, the process is that we did make a request that goes through the Department process, and ultimately ends up getting a lot of scrubbing and review. I actually participated in the Departmental Resources

Review Board. I am not on that Board, but I was allowed to be present and to present the CBP budget request.

I need to get back to you. I do not have the time line clearly in mind, but I do not remember as I was presenting the CBP budget to the Department that the intelligence bill I do not believe had passed with that authorization level. In fact, I am just reminded it was not signed until December 17, 2004. So it may have been one of those things where the budget was being put together before we even knew what the Congressional intent was in the intelligence bill.

That said, by the way, let me say that—and I was addressing this a little bit with Senator Leahy—we have in the last 10 years or so, literally tripled the size of the Border Patrol, from about 4,000 Border Patrol Agents in the mid-90's to now, and with the President's request it will be just about 11,000 Border Patrol Agents.

There is a limit, by the way, in thinking of bringing new agent resources on board, there is a limit to how much a law enforcement organization like the Border Patrol can absorb. There are limits to how many agents the Border Control can recruit, hire, and train in a single year, and still maintain its cohesiveness as a law enforcement organization.

But that is going beyond your question, Senator. I think the answer is I do not believe that the 2000 number was out there as the budget request was going forward.

#### IMPLEMENTATION OF THE VISA REFORM ACT

Senator COCHRAN. Mr. Aguirre, the Visa Reform Act was passed as part of the fiscal year 2005 Consolidated Appropriations Act. That act tightens controls on the L1 visa and expands the cap on the H1B visas. What steps have been taken to begin implementation of that act?

Mr. AGUIRRE. Well, Mr. Chairman, on the L1B visas there is a provision for additional resources, human resources, to be ensured that we can prevent fraudulent applications on the L1B. I think you are clearly aware that fraud is a major issue for Immigration Services, and L1B visas in particular are ones that we have felt, and I think the Congress has felt as well, that it is vulnerable to fraud. Therefore we are putting additional human resources and applying our fraud detection and national security unit to make sure that the applications are properly processed, and expedited in the normal process, but that we identify if there are any indices of fraud that we can identify appropriately.

#### L1 VISA INTER-AGENCY TASK FORCE

Now, on the H1B applications, as you know, there is a provision for an additional 20,000 applications, or the cap is raised by 20,000. We are in the process of implementing that number and within the next few days, if not weeks, we will have an improved process to take advantage of that.

Senator COCHRAN. Has the L1 Visa Inter-Agency Task Force been set up?

Mr. AGUIRRE. Senator, I am not aware of that, no, sir.

## UNFAIR TRADE PRACTICES—CATFISH IMPORTS

Senator COCHRAN. Mr. Bonner, this committee is interested in the progress to protect American industries from unfair competition. You mentioned the catfish and grouper issue a while ago. Of importance of course in our State and in the South is the catfish industry and the enforcement of antidumping orders in connection with Vietnamese tra and basa. What are ICE and CBP doing now to enforce this antidumping order?

Mr. BONNER. Well, I can tell you, Senator, that going back to October of last year we began a special enforcement effort to essentially identify the misdescription, mislabeling of catfish, imported catfish that would be subject to antidumping duties. We do have a laboratory science and services branch where we were taking samples literally of imports that were coming into the port of L.A., Long Beach, Miami, and the Port of New York, and determining whether in fact they were what they were represented to be. We found that there was significant misdescription of a product that was being shipped from Vietnam.

We have taken three important actions. One, based upon that identification at the port levels, we have raised the continuous duty bonds. We are requiring higher single entry duty bonds with respect to product that we believe in fact was subject to the countervailing duties, that is to say was in fact catfish. We have required payment of additional duties. We are actively pursuing what are called section 1592 penalty actions against those importers who imported mislabeled, I might say falsely and potentially fraudulently mislabeled product. We are working with ICE, as I indicated to Senator Byrd, to attempt to get further investigation through the ICE special agents, and potentially we are hopeful to get criminal prosecutions in at least some of these cases in conjunction with the Department of Justice and the relevant U.S. attorney's offices.

Clearly, we have taken some steps. We are moving out on this issue because there is clearly some false labeling that is taking place here to essentially circumvent and fraudulently evade the antidumping duties.

Senator COCHRAN. Mr. Garcia, you have some responsibilities in this area as well, do you not?

Mr. GARCIA. Yes, I do, Mr. Chairman. ICE, as Commissioner Bonner indicated, is responsible for investigations in this area. We are committed to doing that. I know this crime has a very real impact on industries in this country. I have spoken with a number of members of Congress about those impacts in their particular districts and particular industries.

I have seen a number of significant cases, and again Commissioner Bonner touched on them, that have come across my desk. I believe that we will be moving forward, again with the relevant U.S. attorney's office, to seek to bring criminal charges in a number of cases. We are using our overseas assets very aggressively to root out some of the fraud that has been going on in this area.

So we have made progress and we are committed to continuing those enforcement efforts.

#### BORDER PATROL AIRCRAFT REPLACEMENT

Senator COCHRAN. Mr. Bonner, the budget request includes some money, \$20 million, to begin replacing Border Patrol helicopters. The plan calls for the full replacement of the air fleet to be completed in 2010. Is the request that is included in the budget sufficient to get you started in this direction? Would additional resources allow you to speed up the replacement of the fleet?

Mr. BONNER. I am happy to get started on the recapitalization of the Border Patrol air assets. As I think you know, Mr. Chairman, out of the 110 or so air platforms that the Border Patrol has, roughly—this is a rough estimate as I do not have the exact number, about 40 to 50 of those are Vietnam vintage aircraft—the OH-6's, the small bubble surveillance helicopters, as well as about maybe 10 or 12 Vietnam vintage Hueys.

It is a good start. As we move forward with the integration of the Air and Marine Office in a better configuration with the Border Patrol air assets, we are going to find that there are some benefits there in terms of how we look at the air resources we need.

But nonetheless, there is a significant amount of recapitalization that is going to need to be done and this is a start on it. Yes, Mr. Chairman, if there were more funding it would help us get there faster.

#### INTEGRATION OF CBP AIR AND MARINE ASSETS

Senator COCHRAN. The integration of the air and marine resources has begun, as you point out. What progress is being made toward integrating the units with the Border Patrol?

Mr. BONNER. There is some good progress. First of all, of course, the first phase of it was essentially the integration or the transfer. In some ways I see it as a transfer back to U.S. Customs, but anyway it was the transfer in November of last year of the Air and Marine Operations (AMO) office to CBP. That was phase one. That has been completed.

We are now into phase two. In phase two, I am using the Transition Management Office process that we used very successfully to unify and integrate CBP. It is a process that essentially looks at the ways that we can now further integrate essentially the air assets and also the marine assets that are now all within CBP.

By the way, there have already been some very important benefits from this, from the transfer of AMO to CBP in terms of better operational coordination between the Border Patrol and AMO and the like. But phase two will do this. It will better integrate one procurement, for not just the Border Patrol and not just for AMO, but for both. It will better integrate one maintenance system for all aviation air assets, one training system for all of our pilots, whether they are from the Border Patrol or whether they were AMO pilots. Ultimately, as part of this process, we are going to determine ways to better operationally integrate the efforts of both of these air and marine groups and assets.

I have had several briefings on this already. I believe that we will be able to make some key decisions along the lines I have described certainly in the next couple of months or so, so that we are continuing to move forward with the best optimal organization, if

you will, of the sum total of the air and marine assets that are now within CBP.

Senator COCHRAN. I appreciate very much the cooperation of each of you and your agencies with our committee and the requests that we submit for information from time to time. Particularly, I appreciate your taking time to come here today and participate in this hearing, which is very important for us to have to get a full understanding of how you are allocating the resources under the budget request and what the priorities are.

#### ADDITIONAL COMMITTEE QUESTIONS

We want to help you succeed in your activities. So we thank you very much for your cooperation with our subcommittee. Senators may submit questions to you in writing and we ask you to respond to those within a reasonable time for our committee record.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

#### QUESTIONS SUBMITTED BY SENATOR THAD COCHRAN

##### CONTINUED FUNDING SHORTFALLS—ICE

*Question.* In September of 2004, this Committee approved a request to transfer and reprogram \$152 million in order to allow Immigration and Customs Enforcement (ICE) “to effectively manage its financial position through year end”. In other words, the request was to move \$152 million to ensure that ICE did not have a shortfall.

This Committee worked with the Department to permanently move \$193 million in base resources from Customs and Border Protection to ICE in the fiscal year 2005 Appropriations Act. Admiral Loy recently testified to the House Appropriations Committee that he expects there to be a reprogramming request submitted soon to provide anywhere from an additional \$250 to \$300 million to ICE in order to finish out fiscal year 2005.

The cycle of stopgap solutions needs to end. Too much time seems to have been spent trying to figure out how this situation came about—what is termed “mapping”—rather than trying to make sure this problem is resolved so that we can move forward to ensure that an agency vital to combating terrorism is solvent.

When will this Committee receive the transfer/reprogramming proposal to address the fiscal year 2005 shortfall?

*Answer.* The notification of the proposed reprogramming was transmitted to the Appropriations Committees on March 12, 2005, in a letter dated March 11, 2005.

*Question.* Have Congressional initiatives funded in the fiscal year 2005 Appropriations Act been deferred until this problem is resolved?

*Answer.* In the proposed reprogramming, ICE is proposing to defer \$85,216 million of the \$193,916 million in enhancements, i.e., Congressional initiatives, funded in the fiscal year 2005 Appropriations Act. Item 2, on page 5 of the Report of Proposed Reprogramming Action discusses, in detail, the enhancements which are being reduced from their original appropriated amounts. The enhancements that have been reduced are shown below:

##### *Fugitive Operations*

The enhancement is reduced to \$9 million from the appropriated \$50 million level. This will allow funding of 42 positions instead of the 236 positions originally planned. The reduction will mean that fewer Fugitive Operations teams can be deployed as originally planned.

##### *Institutional Removal Program*

The enhancement is reduced to \$4 million from the appropriated \$30 million level. This will allow funding of 37 positions instead of the 279 positions originally planned. Higher cost Special Agents will continue to perform some institutional removal duties, instead of replacing all of them with Immigration Enforcement Agents.

*Compliance Enforcement Units*

The enhancement is reduced to \$11 million from the appropriated level of \$16 million. This will permit funding of 89 positions instead of the 130 positions originally planned.

*Alternatives to Detention*

The enhancement is reduced to \$2 million from the appropriated level of \$11 million. This will permit funding of 11 positions instead of the 60 positions originally planned. Some capacity increases will occur at each of the current eight Intensive Supervision sites, though not to the anticipated levels.

*Guantanamo Migrant Operations Center*

The enhancement is reduced to \$2 million from the appropriated level of \$6.2 million. The level should be sufficient to support the Center's operations. (Note: remaining, fully-funded, enhancements include \$26.5 million for Detention Bed Space; \$25 million for Benefit Fraud; \$14 million for the Visa Security Unit and the Office of International Affairs; \$6 million for the Immigration Court Backlog; \$5 million for Worksite Enforcement; and, \$4.2 million for the Cyber Crime Center.)

*Question.* What assurance do we have that the fiscal year 2006 request for ICE will solve this problem permanently?

*Answer.* The full funding level requested in the President's Budget, internally realigned for the impact of the fiscal year 2005 reprogramming request, will allow ICE to carry out its mission during fiscal year 2006. We do not foresee the need for further reprogramming or funding transfers among bureaus.

*Question.* ICE has now lived under a hiring freeze for close to a calendar year. What impact is this having on the organization's ability to carry out its mission?

*Answer.* ICE has had to implement several measures to ensure it operates within existing resources. It has had to prioritize funding requirements. In all cases, ICE has worked to ensure that mission critical requirements have been funded with the intent of minimizing any adverse impact on its national security related mission.

*Question.* There are significant resources requested for fiscal year 2006 to increase the base funding available to ICE: \$105 million for the Office of Investigations, \$24 million for the Office of Detention and Removals, and a significant portion of the \$90 million for Custody Management. What method was used to come up with these estimates?

*Answer.* Estimates were derived by looking at the entire operation and determining that the resources of these offices/programs needed increases in order to attain key operational goals.

*Question.* Will the fiscal year 2006 request provide ICE with the funding necessary to enable it to lift the hiring freeze on October 1, 2005?

*Answer.* ICE continues to work closely with DHS, BTS, and OMB to identify solutions to address its financial issues. One of ICE's priorities is to implement financial solutions that will allow the lifting of the hiring freeze. This work is ongoing and as a result, it is too early to state whether the hiring freeze will be lifted on October 1, 2005. An alternative may be to implement solutions that would allow the freeze to be lifted later in the fiscal year.

*Question.* According to the just delivered "ICE Financial Management Overhaul" report, "The ICE Assistant Secretary brought in a team from other components of DHS on a 90-day detail to help identify solutions to ICE's financial issues. The team will make recommendations to the Assistant Secretary by later this Spring." Its charter includes: development of short-term recommendations to address fiscal year 2005 funding issues; an action plan with key recommendations to place ICE into a stable funding position for fiscal year 2006 and beyond; and recommendations for policies and procedures that will result in transparent budget and financial planning and execution. What potential is there that these recommendations could cause significant revisions to the President's fiscal year 2006 budget request?

*Answer.* The President's Budget includes the necessary funding to ensure ICE can accomplish its mission to detect vulnerabilities and prevent violations that threaten national security. As mentioned in the "ICE Financial Management Overhaul" report, the team is developing recommendations to improve ICE's financial position in 2006.

As noted in your question, the final report is due to the Assistant Secretary later this spring. The team's recommendations will be shared with the ICE's new CFO and Budget Director. ICE appreciates your interest in this effort and looks forward to working with you and your staff where necessary to implement any recommendations.

*Question.* How is it that this organization is almost 2 years old and is just now looking to develop sound financial planning policies and procedures?

**Answer.** The creation of the Department of Homeland Security represented a reorganization unprecedented in the Federal Government. 2005 represents the first year that ICE has focused on issues other than transition and reconciliation. It is an opportune time to further refine financial policies and procedures previously implemented and to continue developing sound policies and processes as necessary.

**Question.** ICE has two outsourcing competitions on going—labor management and intelligence support. Is this an area where ICE could see significant cost savings?

**Answer.** Fiscal year 2005 would have been U.S. Immigration and Custom Enforcement's (ICE's) initial full year of participation in competitive sourcing since its inception. ICE intended to initiate its original studies on a relatively small scale in order to properly establish its competitive sourcing infrastructure. Significant cost savings were not expected to be realized based on the fiscal year 2005 studies. More significant savings would be anticipated based on broader studies under consideration for fiscal year 2006. ICE expects to be an active participant in the initiative in fiscal year 2006.

**Question.** Please provide a chart with the on-board staffing level for ICE, by position type, for September 30, 2004, and fiscal year 2005 through January 31, 2005, both excluding Air and Marine Operations.

**Answer.** Attached are the ICE on-board staffing charts for the end of fiscal year 2004 and fiscal year 2005, through the pay period ending February 5, 2005. Federal Protective Service positions are included, but Federal Air Marshal Service positions are not included.

Highlighted changes from 2004 to 2005 are:

- An increase of 185 positions transferred from Customs and Border Protection to ICE for International Affairs
- The movement of 112 Organized Crime Drug Enforcement Task Force positions from reimbursable to direct
- The movement of 138 positions from reimbursable to direct

ICE On-board Staffing Level for the end of FY 2004	FULL TIME PERM	OTHER THAN PERM	TOTAL	TOTAL REIM	TOTAL
GS-00xx, Miscellaneous Occupations Group	1,034	6	1,040	0	1,040
GS-01xx, Social Science, Psychology, and Welfare Group	476	1	477	7	484
GS-02xx, Human Resources Management Group	52	4	56	0	56
GS-03xx, General Administrative, Clerical, and Office Services G	1,193	163	1,356	31	1,387
GS-04xx, Biological Sciences Group	0	0	0	0	0
GS-05xx, Accounting and Budget Group	255	14	269	0	269
GS-06xx, Medical, Hospital, Dental, and Public Health Group	2	0	2	0	2
GS-07xx, Veterinary Medical Science Group	0	0	0	0	0
GS-08xx, Engineering and Architecture Group	18		18	1	19
GS-0905, General Attorney Series	567	42	609	0	609
GS-0950, Paralegal Specialist Series	23	0	23	0	23
GS-0962, Contact Representative Series	0	0	0	0	0
All other GS-09xx, Legal and Kindred Group	143	6	149	0	149
GS-10xx, Information and Arts Group	49	57	106	0	106
GS-11xx, Business and Industry Group	100	3	103	0	103
GS-12xx, Copyright, Patent, and Trademark Group	0	0	0	0	0
GS-13xx, Physical Sciences Group	22	0	22	0	22
GS-14xx, Library and Archives Group	2	0	2	0	2
GS-15xx, Mathematics and Statistics Group	0	0	0	0	0
GS-16xx, Equipment, Facilities, and Services Group	19	0	19	4	23
GS-17xx, Education Group	25	6	31	0	31
GS-1801, Detention and Deportation Officer	903	2	905	0	905
GS-1801, Immigration Enforcement Agent	2,103	10	2,113	0	2,113
GS-1801, Air and Marine	0	0	0	0	0
All other GS-1801	223	0	223	17	240
GS-1802, Detention Enforcement Officer (1802)	27	21	48	0	48
All other GS-1802	1,000	133	1,133	10	1,143
GS-1811, Criminal Investigator	5,391	0	5,391	638	6,029
GS-1884 Patrol Officer	0	0	0	0	0
All other GS-18xx, Investigation Group	1	16	17	17	34
GS-19xx, Quality Assurance, Inspection, and Grading Group	7	0	7	0	7
GS-20xx, Supply Group	24	1	25	0	25
GS-2181, Pilot (2181)	0	0	0	0	0
All other GS-21xx, Transportation Group	21	0	21	0	21
GS-22xx, Information Technology Group	174	0	174	0	174
WG	120	4	124	0	124
Other (Non-WG)	0	0	0	0	0
<b>TOTAL</b>	<b>13,974</b>	<b>489</b>	<b>14,463</b>	<b>725</b>	<b>15,188</b>

Data Excludes Air and Marine

ICE On-board Staffing Level for Pay Period Ending February 5, 2005	FULL TIME PERM	OTHER THAN PERM	TOTAL	TOTAL REIM	TOTAL
GS-00xx, Miscellaneous Occupations Group	1032	2	1034	0	1034
GS-01xx, Social Science, Psychology, and Welfare Group	474	2	476	7	483
GS-02xx, Human Resources Management Group	48	3	51	0	51
GS-03xx, General Administrative, Clerical, and Office Services Group	1180	148	1328	24	1352
GS-04xx, Biological Sciences Group	0	0	0	0	0
GS-05xx, Accounting and Budget Group	249	15	264	0	264
GS-06xx, Medical, Hospital, Dental, and Public Health Group	2	0	2	0	2
GS-07xx, Veterinary Medical Science Group	0	0	0	0	0
GS-08xx, Engineering and Architecture Group	18	0	18	1	19
GS-0905, General Attorney Series	565	42	607	0	607
GS-0950, Paralegal Specialist Series	23	0	23	0	23
GS-0962, Contact Representative Series	0	0	0	0	0
All other GS-09xx, Legal and Kindred Group	133	4	137	0	137
GS-10xx, Information and Arts Group	45	54	99	0	99
GS-11xx, Business and Industry Group	94	2	96	0	96
GS-12xx, Copyright, Patent, and Trademark Group	0	0	0	0	0
GS-13xx, Physical Sciences Group	21	0	21	0	21
GS-14xx, Library and Archives Group	1	0	1	0	1
GS-15xx, Mathematics and Statistics Group	0	0	0	0	0
GS-16xx, Equipment, Facilities, and Services Group	19	0	19	4	23
GS-17xx, Education Group	24	5	29	0	29
GS-1801, Detention and Deportation Officer	896	2	898	0	898
GS-1801, Immigration Enforcement Agent	2122	14	2136	0	2136
GS-1801, Air and Marine	0	0	0	0	0
All other GS-1801	193	0	193	16	209
GS-1802, Detention Enforcement Officer (1802)	5	18	23	0	23
All other GS-1802	981	115	1096	3	1099
GS-1811, Criminal Investigator	5619	0	5619	383	6002
GS-1884 Patrol Officer	0	0	0	0	0
All other GS-18xx, Investigation Group	2	20	22	0	22
GS-19xx, Quality Assurance, Inspection, and Grading Group	8	0	8	0	8
GS-20xx, Supply Group	23	1	24	0	24
GS-2181, Pilots (2181)	0	0	0	0	0
All other GS-21xx, Transportation Group	20	0	20	0	20
GS-22xx, Information Technology Group	178	1	179	0	179
WG	119	4	123	0	123
Other (Non-WG)	1	0	0	0	0
<b>TOTAL</b>	<b>14094</b>	<b>452</b>	<b>14546</b>	<b>438</b>	<b>14984</b>

Data excludes Air and Marine

*Question.* Please provide updated fee projection charts for each fee account for fiscal year 2006 as compared to fiscal year 2005, with the chart for the Student Exchange Visitor Information System broken out by month.

*Answer.* Attached are fee projection charts for ICE by fee account for fiscal year 2006 versus fiscal year 2005.

Fee accounts	Fiscal year 2005	Fiscal year 2006
Immigration User Fee .....	\$100,000	\$101,621
Breached Bond Detention Fund .....	114,000	115,260
Student and Exchange Visitor Program:		
I-901 Revenues:		
October .....	1,459,215	2,039,431
November .....	2,636,660	2,166,852
December .....	3,451,620	3,135,481
January .....	2,211,365	2,092,676
February .....	1,970,220	1,485,072
March .....	2,661,321	2,661,321
April .....	4,452,487	4,452,487
May .....	6,211,727	6,311,727
June .....	7,225,460	7,509,932
July .....	7,149,570	7,441,213
August .....	4,515,573	4,524,954
September .....	2,072,375	2,072,375
Total .....	46,017,593	45,893,520
I-17 Revenues:		
October .....	30,659	1,050,960
November .....	27,960	403,680

Fee accounts	Fiscal year 2005	Fiscal year 2006
December .....	38,416	187,920
January .....	28,540	231,420
February .....	33,330	320,740
March .....	29,000	211,120
April .....	29,000	372,940
May .....	29,000	309,720
June .....	29,000	161,240
July .....	29,000	132,820
August .....	29,000	53,360
September .....	29,000	62,640
Total .....	361,905	3,498,560

*Question.* Please provide a chart with the fiscal year 2006 annualization projections broken out by fiscal year 2005 initiative.

*Answer.* Please see table below.

Enhancement	Annualization	One-time costs	Net
Compliance .....	\$13,743	(\$9,710)	\$4,033
IRP .....	28,478	(11,420)	17,058
Fugitive Ops .....	25,799	(11,543)	14,256
Alternatives .....	4,925	(2,856)	2,069
Bed Space .....	2,869	(1,326)	1,543
Backlog .....	13,256	(2,222)	11,034
Worksite .....	3,044	(1,648)	1,396
Total .....	92,114	(40,725)	51,389

*Question.* Please provide detailed comprehensive justifications for each program increase requested in the fiscal year 2006 President's budget.

*Answer.*

#### *Homeland Security Data Network (HSDN)*

[In thousands of dollars]

Program	Fiscal year 2004 budget	Fiscal year 2005 budget	Fiscal year 2006 budget	Fiscal year 2006 change
ICE's portion of HSDN <sup>1</sup> .....	.....	.....	11,300	11,300

<sup>1</sup> Note: There is no base budget for HSDN. However, the Department's Working Capital Fund assessment for fiscal year 2005 is currently estimated to be \$8.695 million. ICE contributed \$3.2 million to the WCF in fiscal year 2004 for HSDN.

The fiscal year 2006 enhancement for HSDN totals \$11.3 million and 1 FTE.

HSDN is a multi-agency, Department-wide project, funded from contributions from participating agencies. For fiscal year 2005, ICE's estimated contribution to HSDN is \$8.7 million. In fiscal year 2004, ICE contributed \$3.2 million to HSDN. Although ICE contributes funding for HSDN, the development, deployment, and management of the network is the direct responsibility of the HSDN Program Office which also manages all the funding for this ICE-sponsored initiative.

The HSDN is a secure communication network for transmission of information classified up to SECRET. It has been designed to replace several disparate legacy systems. HSDN will provide connectivity to the Department of Defense (DOD) Secret Internet Protocol Router Network (SIPRNet) to all users. DOD has indicated that non-DOD agencies should not use the SIPRNet as their primary classified communications medium. HSDN will provide access to SIPRNet via controlled gateways, satisfying this DOD concern. There are more than 400 DHS sites requiring HSDN deployment. Funding of this initiative will provide access to as many as 700 users in fiscal year 2006.

Funding for this request would support a HSDN coordinator to serve as a liaison between ICE program offices and the DHS's Science and Technology (S&T) Directorate, the HSDN program manager. The remaining resources would be provided to S&T for costs associated with the HSDN development process, including a survey of ICE locations, installation of equipment, set-up of terminals, and activation of service to terminals.

HSDN implementation was designed to follow a phased schedule. The first phase—which included the design and approval of the overall network design—has

been completed. The second phase proposes the installation of a limited number of terminals in 72 locations. Among these, 13 are ICE locations which include facilities within the Office of Intelligence and Office of Investigations. Equipment installation at these ICE locations is expected to continue through fiscal year 2005.

The remaining HSDN implementation phases will encompass the installation of all remaining locations including State and local offices. ICE has identified an additional eighty-eight locations which will have the HSDN installed in these remaining phases. These include the remaining Special Agent in Charge Offices, most Resident Agent in Charge Offices, Intelligence Collection and Analysis Teams, and remaining Office of Intelligence locations.

*Performance Impact.*—Funding of this initiative will provide access to HSDN as follows:

Performance increase	Fiscal year 2006 request level	Fiscal year 2007 request level	Fiscal year 2008 request level	Fiscal year 2009 request level	Fiscal year 2010 request level
Total number of HSDN users .....	700	1,000	1,000	1,000	1,000

#### *Visa Security Unit*

[In thousands of dollars]

Program	Fiscal year 2004 budget	Fiscal year 2005 budget	Fiscal year 2006 base	Fiscal year 2006 budget	Fiscal year 2006 change
Visa Security Unit .....	.....	10,000	10,000	15,000	5,000

The fiscal year 2006 enhancement for VSU totals \$5 million and 5 FTE.

The ICE Visa Security Unit (VSU) conducts in-depth review of visa applicants wishing to enter the United States, with the goal of denying visas to terrorists, criminals, and persons of special interest. Visa Security Program officers are assigned to posts to perform this law enforcement review of immigrant and non-immigrant visa applications prior to visa issuance by consular officers of the Department of State.

For fiscal year 2005, the VSU's first year of funding, \$10 million was provided to: (1) establish permanent operations in Saudi Arabia; (2) expand visa security operations to five additional high-risk locations (locations are not named here due to law enforcement sensitivity); and (3) hire 22 permanent positions (five at Headquarters and 17 at the overseas posts).

The enhancement requested for fiscal year 2006 would support nine additional positions (\$4.827 million) and provide \$173,000 for Investigations Training. These resources would advance incremental progress toward program expansion.

A \$5 million enhancement to the base would:

- fund new overseas visa security post (to be selected based on current risk), staffed by three permanent Visa Security Officers, to expand the scope of visa security operations. Overseas operations involve: conducting in-depth scrutiny of high risk visa applicants; providing advice and training to consular officers to enhance their ability to detect terrorist, criminal, and otherwise fraudulent visa applicants through the consular adjudication process; and initiating investigations under DHS authority;
- hire two additional officers at Headquarters to provide operational and administrative support to the overseas operations;
- hire four permanent officer positions to replace temporary duty personnel currently investigating Security Advisory Opinions (SAOs) and "Section 306" cases (visa applicants from a State Sponsor of Terrorism);
- expand funding for Consular Training programs, including Headquarters consular training program development, Rapid Response Team capability, and consular evaluation program development.

*Performance Impact.*—The Homeland Security Act authorizes the Secretary of Homeland Security to assign employees of the Department to diplomatic and consular posts at which visas are issued, unless the Secretary determines that such an assignment to a particular post would not promote homeland security. The Secretary must submit an annual report to Congress that describes the basis for each determination that the assignment of an employee of the Department at a particular post would not promote homeland security.

Conducting the activities of the VSU in Saudi Arabia and expanding to the locations designated as highest risk by the Secretary are expected to generate an increase in homeland security outputs such as: recommendations to refuse individual visa applications, generation of investigative leads, additional lookouts and watch

list entries, identification of visa fraud schemes (including fraudulent documents, businesses, organizations, and associates), delivery of formal and informal training to consular officers, and other enforcement actions. The outcomes associated with these outputs may include a decrease in the vulnerabilities in the visa issuance process, increased integrity of the immigration system, and a greater awareness of terrorist suspects and activity patterns.

Performance level	Fiscal year 2005 est. level	Fiscal year 2006 request level	Fiscal year 2007 request level	Fiscal year 2008 request level	Fiscal year 2009 request level	Fiscal year 2010 request level
Percentage security review of all visa applications in Saudi Arabia .....	100	100	100	100	100	100
Percentage of high risk visa applicants scrutinized at the non-Saudi posts .....	NA					

#### *Legal Proceedings*

[In thousands of dollars]

Program	Fiscal year 2004 budget	Fiscal year 2005 budget	Fiscal year 2006 base	Fiscal year 2006 budget	Fiscal year 2006 enhancements
Principal Legal Advisor .....	86,423	113,105	119,514	123,014	3,500

Note: Funding from the Salaries and Expense account only. Does not include reimbursable funding.

The fiscal year 2006 enhancement for Legal Proceedings totals \$3.5 million and 24 FTE.

Of the fiscal year 2005 enhancements, 16 attorney and 12 support positions are scheduled for Headquarters while 38 attorneys and 8 support positions are targeted for the Field. The Headquarters positions will be distributed among existing Headquarters teams dealing with the following areas:

- Commercial and Administrative Law Division (primarily working on Merit Systems Protection Board appeals, and defending Equal Employment Opportunity claims generated by ICE clients (Federal Protective Service (FPS) and Federal Air Marshals (FAMS)), and handling bid protests primarily generated by FPS contracts;
- the National Security Law Division overseeing the litigation of national security cases, providing legal advice to the Office of Intelligence, and performing liaison activities with other law enforcement agencies;
- the Customs Enforcement Law Division, dealing with policy issues, and day to day monitoring of undercover operations, and ongoing criminal investigations; the Enforcement Law Division, dealing with a wide range of issues generated by the Office of Detention and Removal, the Office of Investigations, FAMS, and FPS, including statutory authority, search and seizure, use of force, and parole and custody issues, and the Human Rights Law Division, coordinating the litigation and advises the field on human rights abuser and persecutor cases.

The fiscal year 2005 field positions will be devoted to the following field areas:

- increased time and efforts spent on national security, predator and persecutor cases at the field level;
- increased training of staff on national security and persecutor issues;
- increased review of Notices to Appear prior to issuance or the hearing date;
- more timely movement of “change of venue cases” between district offices to cut down on adjournments because the agency representative does not have the file;
- increased amount of time spent on preparing a case for hearing, with a particular focus on review of alien evidentiary submissions and investigation thereof so as to minimize the number of adjournments required for document checks (by the Forensic Document Laboratory, the Department of States, and ICE/CIS offices abroad);
- increased emphasis on benefit and asylum fraud, including development of criminal prosecutions, so as to discourage the filing of fraudulent or frivolous applications;
- increased emphasis on responding to motions to reopen and filing responses to alien briefs before the Board of Immigration Appeals so as to diminish the number of non-meritorious cases that are reopened, and to speed up appeal processing at the Board of Immigration Appeals level.

These increased resources will also be used to assist the Office of Immigration Litigation (OIL) and the Offices of the United States Attorney (USAO) litigating Petitions of Review of removal orders and habeas challenges to custody and removal.

Past, current, and planned deployment of resources (Attorneys/Support):

	Current	Planned fiscal year 2005	Planned fiscal year 2006
Arlington .....	11/4	13/4	14/4
Atlanta .....	8/3	9/3	10/3
Baltimore .....	10/4	11/4	12/4
Boston (Includes Hartford Office) .....	19/6	21/6	23/7
Buffalo .....	8/3	8/3	
Chicago (Includes Kansas City Office) .....	17/7	19/7	
Dallas .....	10/4	10/4	
Denver (Includes Helena and Salt Lake City Offices) .....	11/5	12/6	12/7
Detroit (Includes Cleveland, Cincinnati Offices) .....	12/4	14/5	16/6
El Paso .....	10/4	11/4	12/4
Honolulu .....	2/1	2/1	
Houston .....	18/7	19/7	20/7
Los Angeles (Includes Las Vegas Office) .....	75/26	83/28	89/32
Miami .....	52/18	56/19	60/22
Newark .....	21/7	23/7	24/8
New Orleans (Includes Memphis Office) .....	14/5	16/5	17/5
New York .....	75/26	77/27	80/29
Orlando .....	11/4	12/4	
Philadelphia .....	15/5	16/6	17/7
Phoenix .....	22/8	25/9	27/9
St. Paul (Includes Omaha Office) .....	8/3	10/3	11/3
San Antonio (Includes Harlingen Office) .....	22/8	23/8	23/9
San Diego .....	25/9	25/9	
San Francisco .....	41/14	43/14	45/15
San Juan .....	3/2	3/2	
Seattle (Includes Portland and Anchorage Offices) .....	11/4	11/4	

EOIR's statistical data demonstrates that the largest pending case load exists in descending order in Los Angeles, Miami, New York, San Antonio (including Harlingen), San Francisco, Chicago, Boston (including Hartford), Orlando, Arlington, and Philadelphia. Many cases from Harlingen are ultimately transferred through a change of venue order to more urban locations.

The specific results expected by the investment of resources and/or the impact of not providing the investment:

At present, six different entities (CIS—Asylum Offices and Examinations; CBP—Inspections and Border Patrol; ICE—Investigations and Detention and Removal) create the Notices to Appear (charging documents) that form the basis for litigation before the immigration court. With these expanded resources, ICE legal staff will be able to review more ICE generated charging documents to ensure better quality. It can also take more proactive steps to review charging documents created by other offices prior to the first master calendar on these cases, amending those charges that are legally deficient and filing such amended charges with the court in advance of the hearing date. This will lead to a reduction in adjournments. In addition, it will also permit the ICE litigation staff to terminate any cases that may have been improvidently brought.

Another source of adjournments (and hence backlog) stems from those cases where venue of the hearing has been transferred from one district to another. Frequently, because of a lack of support staffs, the needed files are not forwarded to the gaining office on a timely basis. With these added support resources, more focus can be made on those files, which are the subject of a change in venue, with either the losing office sending the file more expeditiously or the gaining office making more determined efforts to obtain the needed file in advance of the scheduled hearing date. These same support personnel can also more readily assist Assistant Chief Counsel in administrative tasks, which consume a great deal of attorney time best spent on moving a case forward.

The nature of immigration court litigation case has grown exceedingly complex. In the larger city offices, the vast majority of cases before the court are asylum claims, which are very time intensive to litigate. Unfortunately, asylum claims are frequently fraudulent and can be used by unscrupulous individuals as a way to gain status in the country. As part of the application process, aliens normally provide a

large number of documents in support of their claim, many of which may have been manufactured. To attempt to ensure the process is not abused, the Assistant Chief Counsel must conduct intensive alien file and document review. The Assistant Chief Counsel attempts to make full use of the Forensics Document Laboratory and other avenues of investigation to determine if the claim/documentation is bona fide. The Assistant Chief Counsel must also try to track down related alien files to determine if the alien has applied for a benefit under a different alien number/different name, locate alien files of relatives to determine consistency of the claim, and run extensive record checks. Assistant Chief Counsel also needs to contact victims in cases that are brought under the ICE Predator Initiative to assure that they are available to testify regarding the life long adverse impact these actions caused to them to assure alien sexual violators are removed and their relief applications are denied. With these additional attorney resources, Assistant Chief Counsel will be in a better position to do more complete and timely case review, and to request document checks, make record checks, and review related files in a timely manner. This in turn not only makes a better record on which the immigration judge can base his/her decision; it speeds up resolution of the case because all the crucial steps in the process are undertaken sooner.

Agency lawyers also work closely with the Office of the United States Attorneys, and Office of Immigration Litigation litigators by preparing litigation reports, reviewing records where remands are proposed, preparing recommendations for further review where judicial decisions are adverse to DHS interests and by providing guidance, advice and assistance on complex immigration law issues.

In a related vein, in larger city offices, ICE tries to have joint attorney-investigator focus on travel agencies and corrupt attorneys who actively encourage and assist in the filing of fraudulent or frivolous asylum cases. These cases clog the system and lead to additional court backlog. Currently, these joint attorney-investigator efforts have had to be more ad hoc and limited in nature. With these additional attorney resources, the staff would devote more time and effort to identifying the individuals who are the source of such claims, and work more closely with the criminal investigators in developing criminal prosecutions for the United States Attorneys Offices.

#### *Temporary Worker Worksite Enforcement (TWP/WSE)*

[In thousands of dollars]

Program	Fiscal year 2004 budget <sup>1</sup>	Fiscal year 2005 budget	Fiscal year 2006 budget	Fiscal year 2006 change
TWA .....	.....	5,000	23,000	18,000

<sup>1</sup> No funding was devoted to "Temporary Worker Worksite Enforcement" in fiscal year 2004, but approximately \$18 million was devoted to Worksite Enforcement in fiscal year 2004.

The fiscal year 2006 enhancement for TWP totals \$18 million and 72 FTE

As part of the President's proposed temporary worker program to match willing foreign workers with willing U.S. employers, enforcement of immigration laws to ensure compliance is required. Under the President's proposal, the temporary worker program would be open to new foreign workers, and to the undocumented men and women currently employed in the United States. The program would allow workers who currently hold jobs unlawfully to participate legally in America's economy, while not encouraging further illegal behavior.

The spend plan for the \$5 million enhancement in fiscal year 2005 focuses on field training, employer outreach, and reconstituting the Worksite Enforcement Program infrastructure within the Office of Investigations in Headquarters in the final half of fiscal year 2005. Resources requested for fiscal year 2006 will primarily fund the deployment of FTEs to States (CA, TX, FL, NY, IL) having the greatest population of unauthorized workers.

The \$18 million enhancement (of which \$16.216 million is required in the Investigations Operations activity and \$1.784 million is required in the Investigations Training activity) would fund 140 Special Agent and 3 support positions.

*Performance Impact.*—The additional resources will broaden the scope of the worksite enforcement program's strategic goals to include protecting the jobs and wages of legal workers by identifying and removing unauthorized workers. ICE will increase its presence at worksites, concentrating on employers in specific industries and geographical areas who intentionally violate the law or who have historically hired large numbers of unauthorized workers. ICE will also coordinate with Citizenship and Immigration Services to improve and expand verification services (Basic Pilot Program) to employers nationwide pursuant to the Basic Pilot Program Extension and Expansion Act of 2003.

Performance measure	Fiscal year 2006 request level	Fiscal year 2007 request level	Fiscal year 2008 request level
Administrative Worksite Case Completions .....	Base .....	+ 20 percent	+ 30 percent
Criminal Employer Case Presentations .....	Base .....	+ 20 percent	+ 30 percent

*Organized Crime Drug Enforcement Task Force (OCDETF)*

[In thousands of dollars]

Program	Fiscal year 2004 budget	Fiscal year 2005 budget	Fiscal year 2006 budget	Fiscal year 2006 change
OCDETF .....	47,300	33,100	43,678	10,578

Note: In fiscal year 2004 and fiscal year 2005, OCDETF funding was reimbursable. In fiscal year 2006, funding proposed to be directly appropriated to ICE.

The fiscal year 2006 enhancement for OCDETF totals \$43.678 million and 346 FTE.

Currently, funding for ICE OCDETF is provided on a reimbursable basis from the Department of Justice (DOJ). Beginning in fiscal year 2006, funding is being requested via direct appropriations to ICE. Funding requested would cover salary costs for 332 Special Agents (\$41.840 million) and 14 Intelligence Research Specialists (\$1.838 million) for a total of \$43.678 million.

The Organized Crime Drug Enforcement Task Force (OCDETF) program is a Federal drug enforcement program that focuses attention and resources on the disruption and dismantling of major drug trafficking organizations. OCDETF provides a framework for Federal, State, and local law enforcement agencies to work together to target well-established and complex organizations that direct, finance, or engage in illegal narcotics trafficking and related crimes. Related crimes include money laundering and tax violations, public corruption, illegal immigration, weapons violations, and violent crimes. The OCDETF program has been in existence since 1982 and operates under the guidance and oversight of the Attorney General. Utilizing the resources and expertise of 11 member Federal agencies, along with support from State and local law enforcement partners, OCDETF has contributed to the successful prosecution and conviction of more than 44,000 members of criminal organizations and resulted in the seizure of cash and property assets totaling more than \$3.0 billion.

No new FTEs are being requested. Rather, existing personnel will be paid by direct appropriation instead of by reimbursable funding.

In fiscal year 2004, ICE was reimbursed \$47.3 million for costs associated with OCDETF. The reimbursable agreement for fiscal year 2005 provides for up to \$33.1 million—a decrease of \$14.2 million.

*Performance Impact.*—This initiative is intended to restore funding that was cut in fiscal year 2005, to ensure a consistent and more reliable funding source for ICE OCDETF activities, and to establish an appropriated base in lieu of reimbursable funding. This initiative is intended to provide funding that supports dedicated resources engaged in OCDETF activities and to maintain priority status for the program. The impact resulting from the decrease in reimbursable funding in fiscal year 2005 has ICE OCDETF requirements competing for funding—including priority status—within the ICE operational base. As a result, there can be no assurance that prior year performance levels can be maintained or achieved. Direct appropriated base funding is expected to support out-year ICE operations' planning that promotes the continued collaboration with other OCDETF participating agencies to achieve OCDETF goals and objectives.

*\$105 Million Base Increase for Investigations Operations*

[In thousands of dollars]

Program	Fiscal year 2004 budget	Fiscal year 2005 budget	Fiscal year 2006 base	Fiscal year 2006 budget <sup>1</sup>	Fiscal year 2006 enhancements <sup>1</sup>
Investigations Operations .....	796,478	1,138,495	1,099,554	1,267,437	167,883

<sup>1</sup> Note: The President's budget proposes enhancements of \$167,883 million to the Investigations Operations budget activity. Of that amount, \$105 million is a base increase, \$4.827 million is for the Visa Security Unit, \$16.216 million is for Temporary Worker Worksit Enforcement, and \$41.840 million is for OCDETF activities.

The \$105 million base increase will provide resources required to fund base requirements for the Office of Investigations, including salary costs, vehicle replacement, and other general expenses.

*Performance Impact.*—Improved infrastructure on which to support continuation of investigative activities, both domestically and internationally.

#### *Detention Bed Space*

[In thousands of dollars]

Program	Fiscal year 2004 budget	fiscal year 2005 budget	Fiscal year 2006 base	Fiscal year 2006 budget <sup>1</sup>	Fiscal year 2006 enhancements <sup>1</sup>
DRO-Custody Management <sup>1</sup> .....	550,912	697,855	594,169	727,769	108,600

<sup>1</sup> Note: There are three enhancements to the Custody Management program, totaling \$90.0 million, \$25.0 million, and \$18.6 million respectively. The \$25.0 million for ABC/Interior Repatriation is excluded in this display, as it is described separately.

The fiscal year 2006 enhancement for Detention Bed Space totals \$108 million and 16 FTE.

The President's Budget requests an additional \$90 million for detention bed space and \$18.6 million as a base increase for the Custody Management program. Approximately \$63 million of the \$90 million is intended for the direct cost of providing an additional 1,920 beds. The balance of the \$90 million request is intended to fund 32 new positions (16 FTE) to provide staff to support to those beds. This increase in bed space responds to increased demand for detention bed space generated by apprehending agencies (e.g., Border Patrol, Inspections, Investigations, etc.). The \$18.6 million increase will provide resources required to fund base requirements for the Custody Management budget activity within the Office of Detention and Removal.

The fiscal year 2005 appropriation provided an additional \$26.5 million for 1,216 new beds and 28 positions (14 FTE) above fiscal year 2004 levels.

Detention capacity and the necessary resources are fundamental components to the immigration enforcement mission. For the immigration enforcement mission to be successful, detention capacity must be considered at an appropriate ratio compared with resources provided for investigations and apprehensions. Increased detention capacity will improve the ability of ICE to verify alien identity, deter subsequent illegal entry, dramatically increase removal rates, prevent criminal aliens from returning to communities, and protect national security. Criminal aliens comprise more than half of the total detained population and we expect their numbers continue to rise due to enhanced enforcement efforts like IRP (Institutional Removal Program) and 287(g) expansion (local law enforcement authority to enforce immigration violations). Criminal aliens comprise a significant portion of our mandatory detention population (those individuals who have received final orders of removal and whose removal is imminent, those who are pending expedited removal activities, and those who are otherwise required by law or policy to be detained). In recent months, ICE's mandatory population has increased at a gradual, but steady rate due to increased enforcement activities (particularly from Expedited Removal initiative). As these targeted enforcement efforts continue, further growth in our mandatory detention population is likely. ICE continues to improve the efficiency of its detention program by consolidating populations and improving capacity management. These measures are anticipated to reduce costs by eliminating travel from detention facilities to proceedings, reducing average time in detention, and providing for more consistent and higher quality conditions of confinement for the detained population.

ICE will continue to enforce its robust facility inspection program and coordinate with our governmental organizations and non-governmental organization partners in pursuit of maintaining acceptable and appropriate conditions of confinement for the detained population. We are committed to effectively enforcing our immigration laws and protecting our Nation's security in a manner that affords the rights and proper treatment obligated under our laws to detainees, including those claiming asylum.

#### *Fugitive Operations*

[In thousands of dollars]

Program	Fiscal year 2004 budget	Fiscal year 2005 budget	Fiscal year 2006 base	Fiscal year 2006 budget	Fiscal year 2006 enhancement
DRO-Fugitive Ops .....	26,916	44,687	48,121	57,001	8,880

The fiscal year 2006 enhancement for the Fugitive Operations is \$8.88 million and 0 FTE.

The President's Budget requests an additional \$8.88 million to support increased efforts to apprehend fugitive aliens. While estimates vary, the alien absconder population is more than 465,000 and that it continues to grow at a rate of more than

40,000 absconders per year. Experience with the current fugitive operations teams suggests that each team yields at least 500 absconder apprehensions/case closures per year. This success is very encouraging and expanding these efforts will stem the growth of the alien absconder population and begin to reduce the overall numbers of alien absconders at large.

ICE currently employs 16 fugitive operations nation-wide. Cities with fugitive operations teams include: Los Angles (2 teams), Boston, San Francisco, Miami, Houston, New York City (2 teams), Chicago, Newark (2 teams), Detroit, Atlanta, Baltimore, San Diego, and Seattle.

The fiscal year 2005 reprogramming request reduced the \$50 million appropriated enhancement to \$9 million. For fiscal year 2005, \$9 million will support 42 full time positions (21 FTE) and additional funding for bed space and operating costs associated with increased apprehension activity.

This proposed enhancement is aligned to Department of Homeland Security Strategic Objective 2.2, Enforce trade and immigration laws.

All increases in removal rates increase the control DRO has over the removal alien population which contributes directly to national security.

#### *Institutional Removal Program (Criminal Alien Program)*

[In thousands of dollars]

Program	Fiscal year 2004 budget	Fiscal year 2005 budget	Fiscal year 2006 base	Fiscal year 2006 budget	Fiscal year 2006 enhancement
DRO-IRP .....	17,467	31,512	33,706	39,041	5,335

The fiscal year 2006 Institutional Removal Program (IRP) enhancement is \$5.355 million and 19 FTE.

The President's Budget requests an additional \$5.355 million to expand the IPR program and to continue the transfer of the program from the Office of Investigation to the Office of Detention and Removal Operations. The fiscal year 2005 amount will complete the transition of the State of New York and a sizable portion of the State of California. The fiscal year 2006 amount will continue the staffing of California.

IRP, now referred to as ICE's Criminal Alien Program (CAP), identifies aliens who are in criminal incarceration and processing them for removal prior to their incarceration release. This is an effective approach to preventing criminal recidivism and to ensure removable aliens are actually removed once so ordered by an immigration judge.

Currently, the ICE Office of Investigations administers the IRP program with a variety of resources (including job series 1811 criminal investigators). The workload for each immigration enforcement agent (IEA) is 300 charging documents served per year. This figure encompasses the number of interviews and record checks of individuals that are not amenable to removal but are of foreign birth. The plan for CAP is to interview 90 percent or more of all foreign born inmates in Federal, State and mega-county (populations over 1 million) areas. 287(g) (local law enforcement authority to enforce immigration violations) and video teleconferencing will serve the outlying areas.

ICE has placed increased emphasis on complex criminal investigations for its 1811 job series. In recognition of this, Congress provided an additional \$30 million in the fiscal year 2005 appropriation to initiate the transfer of IRP from OI to DRO. The fiscal year 2005 reprogramming requests the enhancement be reduced to \$4 million. This will allow for 37 positions and thus, Special Agents will continue to perform some institutional removal duties, instead of replacing all of them with Immigration Enforcement Agents (IEA). Criminal Alien Program (CAP) is the unification of the old Institutional Removal Program (IRP) and the Alien Criminal Apprehension Program (ACAP). All DRO activities in the incarcerated criminal alien arena will be referred to simply as CAP in the future.

#### STAFFING MODEL

Based on recent production numbers from New York State Department of Corrections (DOC) and Florida Department of Corrections, an IEA will in a year will do 600 interviews in Southern tier States and 500 interviews in Northern tier States. The statistics from these two DOCS suggest a higher percentage of naturalized foreign-born individuals in southern tier States requiring more interviews to obtain the goal of 300 charging documents issued per agent.

The transition will focus on a state-by-state transition of responsibility from OI to DRO. The first States, in order, are New York, California, Texas, Florida and Illinois. The transition, to date, is limited to the New York City Jail of Riker's Island.

*New York.*—The plan has been coordinated with NY State Department of Corrections and New York City Department of Corrections, the two largest non-Federal partners. Pre-existing system and partnerships with Executive Office for Immigration Review and Bureau of Prisons exist under legacy Institutional Hearing Program (IHP). Video teleconferencing will cover traditional ACAP locations at smaller county facilities. Equipment and staffing will be at newly completed Castle Point Facility which offers space for increased staffing.

*California.*—Plans have been discussed to improve the efficiency of identifying and starting removal proceedings for amenable aliens with the California Department of Corrections. The system is currently in a number of locations. Pre-existing system and partnerships with EOIR and BOP exist under legacy IHP. Video teleconferencing will cover traditional ACAP locations at smaller county facilities. Equipment and staffing will be hired and located to meet the needs of the State of California stretch the capacity of the New York VTC center. Due to the costs of installing VTC equipment to local detention facilities, the need will be relatively small in the first years and will be built up as demand grows.

#### *Arizona Border Control (ABC)/Interior Repatriation*

[In thousands of dollars]

Program	Fiscal year 2004 budget	Fiscal year 2005 budget	Fiscal year 2006 budget	Fiscal year 2006 change
ABC .....	.....	.....	39,349	39,349

This fiscal year 2006 enhancement is \$39.349 million for the ABC/Interior Repatriation Program. With this funding, the Interior Repatriation program will transfer from Customs and Border Protection to ICE/DRO in fiscal year 2006. DRO is in the business of removals and will use its experience to build on previous successes.

Interior repatriation (IR) is a component of the Arizona Border Control initiative (ABCI). ABCI is a multi-pronged approach to controlling the Arizona Border, which includes anti-smuggling investigations, fugitive arrests, as well as controlling and arresting illegal crossings. IR has a singular focus of the repatriating Mexican nationals. IR's aim is promoting deterrence, reducing recidivism of illegal crossings and thus reducing the number of deaths along the Arizona border.

In fiscal year 2004, 14,058 undocumented immigrants were voluntarily flown from Tucson, AZ, to the interior of Mexico from July 12 to September 30, 2004, after screening by DHS and a Mexican Consular Official. During the IR, Border Patrol Agents interviewed 96,793 potential candidates.

Of those interviewed, 82,735 refused to participate. Of those who declined to participate, 14,069 had been deemed "at risk" migrants. These migrants as well as the other migrants who refused to participate were processed either through voluntary return to the Arizona/Mexico border or other removal mechanisms.

A total of 7 percent (1,008) of IRP participants were arrested attempting re-entry into the United States during the IRP operation dates. This is much lower than the Tucson sector's average recidivism rate of 37 percent.

Interior repatriation can result in a dramatic reduction in the number of deaths in the desert suffered by intending immigrants. Interior repatriation efforts have resulted in strong U.S.-Mexico cooperation. Since the IR pilot last year, DHS has also implemented expedited removal between ports of entry in the Tucson and Laredo sectors, resulting in additional apprehensions in the Tucson area.

#### *Alternatives to Detention*

[In thousands of dollars]

Program	Fiscal year 2004 budget	Fiscal year 2005 budget	Fiscal year 2006 base	Fiscal year 2006 budget	Fiscal year 2006 enhancements <sup>1</sup>
DRO-Alternatives .....	8,659	12,202	12,733	23,533	10,800

<sup>1</sup> Note: There are two enhancements to the Alternatives to Detention program, each totaling \$5.4 million.

The fiscal year 2006 enhancement for Alternatives to Detention totals \$10.8 million and 7 FTE.

The President's Budget requests an additional \$5.4 million to expand the Intensive Supervision Appearance Program (ISAP) and \$5.4 million increase for the Alternatives to Detention program, for a total of \$10.8 million in enhancements. Alternatives to Detention include intensive supervision, electronic monitoring, and telephonic voice recognition. Currently, ICE (through the Office of Detention and Removal Operations—DRO) is piloting several alternatives to detention initiatives.

Early indications are encouraging and suggest that these approaches to monitoring aliens who are not in physical custody may yield better appearance rates to immigration proceedings and better rates of removal once an alien has been ordered removed. The program is still too new to draw definitive conclusions. Over the next 6 to 12 months ICE will be collecting data and evaluating the efficacy of various alternatives to detention strategies.

ICE began piloting this initiative in fiscal year 2004 and has expanded the pilots in fiscal year 2005. Pilot cities include: Miami, Philadelphia, Baltimore, Portland, Denver, San Francisco, and others. The fiscal year 2005 Budget provided \$11 million to expand the number of pilot locations and to fund 60 new full time positions (30 FTE). The fiscal year 2005 reprogramming reduces the funding to \$2 million which permits funding for 11 new full time positions.

DRO will measure the performance of the ISAP program on three levels: (1) Do aliens enrolled in ISAP have a greater rate of appearance at hearings than the rate of a control group of non-detained aliens not enrolled in ISAP? (2) If ordered removed or granted voluntary departure, do aliens enrolled in ISAP surrender/depart at a greater rate than a control group? (3) If the alien fails to surrender for removal or otherwise fails to depart, are absconding aliens in ISAP re-apprehended at a greater rate than that for a control group?

DRO and its ISAP contractor are collecting certain data to test the hypothesis that the performance measures for aliens in ISAP will indicate a greater success rate than the performance measures for a control group of non-detained aliens. "Success" is defined as a statistically significant increase in the appearance rates, surrender rates, and re-apprehension rates. The hypothesis test will involve standard statistical tests (such as "t tests") and commonly accepted levels of statistical significance (generally the significance level in social science research is set to .05). DRO expects it will have gained a sufficiently large sample population to draw statistical inference within the next 6 to 12 months.

DRO and its contractor will also collect data on the appearances at hearings, surrenders for removal, departure from the United States, number of re-apprehensions of absconders.

The ISAP population is non-criminal aliens that are not mandatory detention, who live within a reasonable commuting distance of an ISAP office, and who agree to the conditions of the program. DRC will select a control group of non-detained aliens that are not participating in ISAP. These aliens will be selected from Docket Control Offices that have ISAP. The control group will closely match the ISAP group on such relevant characteristics as country of origin, gender, and length of stay in the United States.

*General Explanation and Justification for the Initiative.*—Detention of all aliens that are apprehended and placed into removal proceedings is not the only way to ensure that aliens appear at their immigration hearings or for removal. Aliens who disappear from ICE supervision pose a potential threat to public safety and national security. To mitigate this flow of cases into the fugitive population, ICE's DRO seeks to further develop alternatives to detention in two ways. First, expansion of the ISAP to two additional locations in fiscal year 2006. Each site is intended to accommodate 200 participants daily. These additional resources would bring the total number of participants nationwide on any given day to 2,000. The ISAP is a community-based, case management program that provides close supervision of illegal aliens emphasizing compliance with Immigration Court requirements. Expansion of the program requires 14 positions (7 FTEs). In order to properly execute the alternatives to detention program within DRO, positions must accompany program expansion. These positions will be used to manage the alternatives to detention docket including enrolling participants, managing the data, ensuring departure from the United States as required, and acting as the local Contracting Officer's Technical Representative.

This proposed enhancement is aligned to Department of Homeland Security Strategic Objective 2.2, Enforce trade and immigration laws.

*Performance Impact.*—This is a cost-effective way to ensure that aliens will appear for their immigration hearings or for removal. This program will increase the integrity of the immigration enforcement process by adding two additional ISAP locations, each intended to accommodate 200 participants daily. ICE is still analyzing the results of alternative to detention programs and will baseline the appearance rates in fiscal year 2006 to begin measuring the true outcome of ISAP. The goal of this program is in line with the strategic objective of removing all removable aliens. The anticipated increase in appearance rates will also mean fewer cases entering the fugitive population.

*Federal Air Marshal Service (FAMS)*

[In thousands of dollars]

Program	Fiscal year 2004 budget	Fiscal year 2005 budget	Fiscal year 2006 base	Fiscal year 2006 budget <sup>1</sup>	Fiscal year 2006 enhancement
FAMS .....	610,290	662,900	678,994	688,860	9,866

This enhancement will allow the FAMS to increase its staffing level to a level that will allow it to meet its mission objective, the risk-based deployment of Federal Air Marshals. FAMS works closely with DHS and other Federal, State and local agencies and private industry to develop, deploy and sustain a comprehensive intelligence-driven approach and response to terrorist and related criminal threats against the United States and its interests. FAMS provides critical support to DHS' missions to prevent terrorist acts within the United States, reduce vulnerability to terrorism, and minimize damage from potential attacks.

Additional information can be provided in a secure manner.

*Student and Exchange Visitor Program (SEVP)*

[In thousands of dollars]

Program	Fiscal year 2004 budget	Fiscal year 2005 budget	Fiscal year 2006 budget	Fiscal year 2006 change
SEVP .....	1,465	40,000	158,100	<sup>1</sup> 18,100

<sup>1</sup> These numbers have been revised since submission of the President's budget on February 7, 2005.

**DHS Strategic Objective Supported: 2.2 Enforce Trade and Immigration Laws**

The Student and Exchange Visitor Program (SEVP) was created to restore integrity to the U.S. immigration system by ensuring that international students, scholars, and exchange visitors studying in the United States comply with the terms of their visas. One of SEVP's primary functions is to track the immigration status of foreign students and exchange visitors.

In fiscal year 2004, SEVP operated with two separate streams of funding—a fee collection process for school certification and appropriated dollars from counter-terrorism funds. The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 mandated the establishment and maintenance of a fee collection process to support the Student and Exchange Visitor Information System (SEVIS) and SEVP. To become a fully fee funded program, SEVP implemented a fee collection process (the SEVIS I-901 Fee) on September 1, 2004. This fee is paid by all prospective students and exchange visitors (\$100 for most and \$35 for some exchange visitors) prior to seeking a visa at the consulates and embassies overseas. The I-901 fee and the fees collected from schools seeking certification to host nonimmigrant students (I-17 Fee), provides the full funding for SEVP, portions of the Compliance Enforcement Unit (CEU), and the Department of State efforts.

In fiscal year 2005, SEVP projects it will collect \$46 million from the SEVIS I-901 fee and \$362,000 from the I-17 school certification fees. In addition, SEVP had a carryover balance of \$2.6 million from fiscal year 2004. Although SEVP projects to have total resources of \$49.0 million for fiscal year 2005, the execution level will remain at \$40 million to ensure continuity of funding for the program.

In fiscal year 2006, SEVP projects to collect \$45.9 million from the SEVIS I-901 fee and \$3.5 million from the I-17 school certification fees. The increase in I-17 school certification fees is based on SEVP collecting initial fees as well as the re-certification fees whereas in fiscal year 2005 they will only collect initial fees. In fiscal year 2006 SEVP will have a full cycle of SEVIS I-901 fees since its inception in September 2004. SEVP projects to have total resources of \$58 million for fiscal year 2006 that includes a \$9 million carryover balance from fiscal year 2005.

FY 2004 carryover balance	\$2,605,838	
FY 2005 collection estimate		
I-901A	\$46,017,593	Estimate includes 5 months of actuals
I-17A	\$361,905	
Total collections	\$46,379,498	
Total balance	\$48,985,336	
FY 2005 authority	\$40,000,000	
FY 2005 carryover balance	\$8,985,336	
FY 2006 collection estimate		Note: FY 06 Spend Plan @ \$52,979,000
I-901A	\$45,893,521	
I-17A	\$3,498,560	
Total collections	\$49,392,081	
Total balance	\$58,377,417	
FY 2006 authority	\$58,100,000	Note: FY 06 Carryover @ \$5,398,417
FY 2007 collection estimate		
I-901A	\$55,000,000	
I-17A	\$4,000,000	
Total collections	\$59,000,000	

The additional \$18.1 million spending authority for fiscal year 2006 will allow SEVP to:

- Maintain staffing levels—the cost of salaries and benefits of newly hired employees
- Continue to improve SEVIS with IT enhancements—allows SEVP to accelerate the implementation of planned enhancements to improve the batch and real time interface processing, incorporate historical data from the SEVIS predecessor (CIPRIS) and implement a user-friendly reporting tool. This increase in funding will also allow SEVP to develop a search tool for the historical data.
- Conduct analysis of current fee structures (I-901 SEVIS fee and I-17 school certification)—fee studies for both the I-901 SEVIS fee and the I-17 school certification were conducted in early 2000

SEVP will continue to perform the following functions:

- Certify schools desiring to participate in SEVIS
- Provide law enforcement with current information on F, M and J nonimmigrants
- Conduct outreach to the academic community
- Accept and process fee payments
- Enhance the functionality of the SEVIS system
- Write policies and regulations to implement statutory requirements
- Train users of the SEVIS system
- Assist ports of entry, DoS consular officials, schools and program sponsors with the entry and stay of F, M and J nonimmigrants

Performance Increase	Fiscal year 2006 request level	Fiscal year 2007 request level	Fiscal year 2008 request level
Percent of F, M, and J nonimmigrant information maintained in SEVIS	100	100	100

*Question.* Are there any services that ICE is being assessed working capital fund charges for in fiscal year 2004 or fiscal year 2005 that are not directly utilized by ICE? Is ICE being charged for services on a basis proportionate to its usage?

**Answer.** According to the DHS Working Capital Fund reimbursable agreements, ICE will only be billed for actual services received. This was true for fiscal year 2004 WCF billings, and is expected for fiscal year 2005 billing. DHS provided detailed proration guidance with the fiscal year 2005 anticipated WCF billings. ICE agrees with DHS proration of WCF costs.

**OFFICE OF SCREENING COORDINATION AND OPERATIONS (9/11 COMMISSION RECOMMENDATION)**

**Question.** The President's Budget proposes to create the Office of Screening Coordination and Operations within the Border and Transportation Security Directorate. CIS has significant screening and identification capabilities and needs, yet the President's budget does not propose moving the operational responsibility for any of those programs out of CIS. In order to ensure that there is the closest possible coordination across screening programs, should CIS screening programs be moved to the Office of Screening Coordination and Operations?

**Answer.** The Office of Screening Coordination and Operations (SCO) is the first step in implementing the requirements of HSPD-11, which directs DHS to review and integrate all screening requirements across the Federal government. USCIS operational requirements and other security elements are being reviewed within the Department, and where deemed appropriate, may be incorporated within the purview of the SCO.

**TERRORIST TRAVEL (9/11 COMMISSION REPORT)**

**Question.** In addition to the formal 9/11 Commission Report, the Commission issued two staff monographs, one of them on Terrorist Travel. While no specific recommendations were made, the report reached interesting conclusions. One conclusion was that "Border inspectors today still do not have basic intelligence and operational training to aid them in detecting and preventing terrorist entry." They are not talking about people who are on watchlists, but providing inspectors with training to detect terrorists not on the watchlist. What steps is CBP taking to incorporate the information uncovered by the 9/11 Commission staff on terrorist travel into basic training for CBP officers?

**Answer.** CBP has established anti-terrorism response protocols to more effectively handle potential terrorism threats identified by CBP personnel. These national-level CBP policies operate both for a CBP Officer questioning a person applying for admission at a port of entry and for a Border Patrol Agent processing an individual who's been apprehended after crossing the border illegally to ensure consistent application throughout the border. CBP has also developed specific anti-terrorism training for passenger processing that includes specific instruction in behavioral analysis, deception detection and eliciting information.

The integrated curriculum for new CBP Officers includes three (3) specific components: Pre-Academy, Academy Basic training at Glynnco, GA, and post-Academy training conducted at the Ports of Entry (In-port training). Academy Training courses for new CBP Officers include new anti-terrorism passenger training and fraudulent document detection. Most importantly, the role of an Officer in CBP's priority mission, anti-terrorism, is taught on day one and reiterated throughout the curriculum.

Under our new curriculum, our basic trainees receive 16 hours in fraudulent document training at the Academy that culminates with a graded practical exercise during which trainees examine characteristics of unique documents and determine if the documents are genuine, counterfeit or altered. The course highlights fraud indicators that may be present in evaluating any document for authenticity. Security features of United States entry documents and imposter detection are emphasized as well. Trainees that fail to successfully complete the course are removed from training. All instructors teaching this course have received training from the Forensic Document Lab.

With regard to questioning techniques, we use practical exercises throughout a trainee's 15 weeks at the Academy. With the help of role players, students are presented with scenarios based on primary inspection situations. During the labs and graded practical exercises, trainees review documents presented, question role players about their visit to the United States and make "refer or release" recommendations. Interviewing labs require trainees to practice observational skills and questioning skills, while applying their job knowledge of documentation requirements, immigration issues, customs exemptions, prohibited and restricted articles, and agricultural issues.

*Question.* Has CBP considered asking the 9/11 Commission staff to put together a seminar on its findings for all current inspectors, allowing them to sharpen their skills?

*Answer.* CBP is open to new training concepts, and though we are not sure that using former Commission staff for training CBP inspectors is an optimal approach, we will keep such ideas in mind as we continue to refine training programs.

*Question.* The report on Terrorist Travel also calls attention to the lack of "viable options to prevent documents known to be fraudulent from being returned to travelers denied entry into the United States". What additional authority would CBP need to be able to confiscate or in some way invalidate fraudulent documents prior to denying entry to someone?

*Answer.* U.S. Customs and Border Protection (CBP) implemented on January 1, 2005, under existing legal authority, a comprehensive program for the seizure and systematic processing of fraudulent travel documents presented for admission into the United States. Key parts of that program include the requirement that no fraudulent travel document be returned to the subject presenting the document and the mandatory forwarding of all seized documents to CBP's newly established Fraudulent Document Analysis Unit for intelligence collection and final disposition (return to issuing authority for destruction). Subjects from whom fraudulent documents have been seized are now issued a Single Journey Letter (SJL) to facilitate their return travel. The SJL conforms with all International Civil Aviation Organization (ICAO) Annex 9 standards for issuance of such documents. It includes interdiction and biographic information as well as the subject's photograph and fingerprints from both right and left index fingers.

*Question.* The report also states "There is no programmatic effort to focus on terrorist travel facilitators, and special agents lack the resources and authority to pursue visitors for immigration violations associated with terrorist activity". What is the Department's position on this statement? What can be done to change this?

*Answer.* ICE has special agents assigned to CBP's National Targeting Center (NTC), the FBI's Foreign Terrorist Travel Task Force (FTTTF) and the FBI's Terrorist Financing Operations Section. All three locations have developed specialized databases to facilitate the investigation of terrorist travel and terrorist travel facilitators. ICE Attachés assigned to posts around the world, and the ICE special agent assigned to the Department of Defense Central Command, are also well-positioned to act upon information relating to terrorist travel facilitators.

*Question.* One of the most interesting findings included in the report on Terrorist Travel, was related to the U.S. Department of Justice's Absconder Apprehension Initiative, started in 2001. Today, this initiative has become the responsibility of ICE's Fugitive Operations Program.

Of the almost 6,000 aliens determined to be the highest priority to track down and remove, 5 percent had been granted U.S. citizenship or had become legal permanent residents after being ordered deported. Can ICE and CIS guarantee that this can never happen again? What steps have been taken to ensure that this cannot happen again?

*Answer.* ICE works to ensure that data is shared and has developed and implemented agreements with CIS to share data. ICE also routinely runs CIS cases against the fugitive database. In addition, CIS has access to the Deportable Alien Computer System (DACS), which tracks all cases under removal proceedings.

*Question.* Is all of the relevant information that each organization has in its records being shared today? Is the Department confident that someone who has been ordered deported from this country can not be granted U.S. citizenship while an absconder?

*Answer.* The information regarding who is an absconder is readily available for queries and searches for CIS to determine if an applicant is considered an absconder or fugitive. An applicant for citizenship has the burden of establishing that he was lawfully admitted for permanent residency in the United States. The Naturalization application requires additional identity and security checks; a definitive response from the FBI background checks, and IBIS checks. In addition, all applications are processed in accordance with established Naturalization Quality Procedures (NQP).

*Question.* When someone is found to be attempting to fraudulently obtain U.S. citizenship, through the use of a false name or some other method, why does it take so long to bring them to justice?

On February 10, 2005, Mostafa Kamal, aka Shaheen Sardar, a native of Bangladesh, was arrested in New York. He entered this country in 1994, over 10 years ago. He was ordered to leave the United States in 1997. This individual made his first fraudulent request for benefits in 1997. Mr. Kamal was interviewed by CIS in connection with his application for U.S. citizenship in November of 2004, an application that was received by CIS in August of 2003, but he was only arrested 3 weeks

ago. The Department has known for sometime where he was—employed by the New York City Police Department as a Traffic Enforcement Agent. What is the issue? Is it resources, priorities? Why do these cases drag on so long before ICE arrests someone?

Answer. In the referenced case, the subject had previously entered the United States in 1993 under a false name and made claims to political asylum. His asylum claim was denied, and an Immigration Judge granted him Voluntary Departure with an alternate order of deportation should he not depart by the specified date in May of 1996. In 1997, he changed his name (name referenced in question), married a U.S. citizen, and applied for a benefit through that relationship. Based on that relationship, he left the United States, reentered, and was admitted to the United States as a Lawful Permanent Resident in 2000. He, in effect, caused an alternate order of deportation when he departed the United States to pick up his Visa. As a result of the name change, the fraud had not been detected. In continuance of this fraud, the subject applied for citizenship, for which he passed all stages in the process and was awaiting a naturalization date. The fraud was discovered. In February 2005, he was presented for criminal prosecution in the Southern District of New York for committing naturalization fraud.

It may take many years for an individual to exhaust his legal administrative remedies. Normally, arrests would not take place while there is an adjudicative or administrative judicial process being pursued and would only take place if the subject were considered likely to abscond. Generally, single scheme frauds are not accepted for criminal prosecution unless there are extraordinary circumstances that would sway the U.S. Attorney's office to consider it.

#### ARIZONA BORDER CONTROL INITIATIVE

*Question.* The Arizona Border Control (ABC) Initiative has been underway for almost a full 12 months. What are the results of this initiative so far? Has it been a success?

Answer. The Arizona Border Control Initiative (ABCI) has been very successful. Initial successes have established a foundation to expand on during fiscal year 2005 in order to achieve operation control of the Arizona/Mexico Border under control. Intelligence and arrest trends collected through ABCI indicate that alien smugglers have been forced to change their operating procedures as a result of ABCI. Selected statistics associated with ABCI are as follows:

- 42 percent increase in arrests over the previous year
- 105 percent increase in narcotics seizures over the previous year
- 26 percent decrease in migrant deaths
- 22 percent increase in Immigration Felony Prosecutions
- 461 percent increases in vehicle seizures
- 350 percent increase in weapons seizures

*Question.* What lessons from the ABC initiative can now be incorporated into the operations of CBP, ICE and others across the Nation?

Answer. Lessons learned that can be incorporated throughout the Nation include:

- Development of Planning Cell Committees of agency leadership personnel to coordinate the creation of operation plans to foster a seamless flow of information and to establish operating coalitions.
- Establishing a coordinated leadership structure with an emphasis on information and intelligence sharing and ensuring that sufficient resources are deployed is a requirement for success.
- Integrating operations between all BTS entities, State, local, tribal agencies and foreign governments achieve better results than working alone.
- Integrating ground-based surveillance technology, air surveillance, and ground personnel creates a “defense in depth” posture, which inhibits the ability of criminal enterprises to operate freely along the U.S./Mexico Border.

*Question.* Funding for this initiative has been requested in the fiscal year 2006 budget request. Should this initiative now be regarded as a permanent resource enhancement?

Answer. The \$1 million increase included in the fiscal year 2006 President's Budget for the Arizona Border Control Initiative (ABCI) should be considered to be a permanent increase to CBP's base funding. These additional resources are required to meet the objectives of the ABCI.

*Question.* The use of unmanned aerial vehicles as a part of the ABC initiative has been considered very successful. However, the contract vehicle that the Science and Technology Directorate was using to provide the UAVs has ended, and there is no UAV coverage while CBP evaluates how best to continue this project. When does

CBP expect to have this issue resolved so that UAV coverage can be put back into place in the Tucson Sector?

Answer. CBP is currently refining requirements to issue a request for proposals (RFP) to the unmanned aerial vehicle (UAV) industry. The contract will specify delivery of the system within 30 days of contract award, which will allow CBP to establish a UAV initial operating capability on the Southern Border in support of the Arizona Border Control Initiative. CBP expects to award a contract for UAV procurement in the fourth quarter of fiscal year 2005.

#### ASYLUM AND EXPEDITED REMOVAL

*Question.* The United States Commission on International Religious Freedom recently issued a report entitled "Asylum Seekers in Expedited Removal". The report contains a number of recommendations for the Department of Homeland Security. The report raised specific issues on the difficulty of applying the standards for asylum and credible fear in a consistent manner across the Department. Has a working group or other mechanism been put in place to look into how the standards are applied and ensure consistent treatment of asylum seekers?

Answer. Since the inception of the expedited removal process in 1997, a standing inter-agency working group has addressed expedited removal issues. The Expedited Removal Working Group is an established forum for discussing all issues relating to expedited removal and comprises experts from each of the affected DHS entities (U.S. Citizenship and Immigration Services, Customs and Border Protection, and Immigration and Customs Enforcement).

Pursuant to former Deputy Secretary Admiral James Loy's concurrence with a joint memorandum from former Undersecretary of Border and Transportation Security Asa Hutchinson, USCIS Director Eduardo Aguirre, and Officer for Civil Rights and Civil Liberties Daniel Sutherland, the Expedited Removal Working Group has been tasked with coordinating review of the United States Commission on International Religious Freedom report, "Asylum Seekers in Expedited Removal." The working group also will draft the Department's responses to the report's recommendations. The working group will report on its review and proposed responses to BTS, USCIS, and CRCL, and their report then will be forwarded to the Secretary.

*Question.* The report also raised concerns about the detention policies and facilities used for the majority of asylum applicants. CBP, ICE, and CIS must all balance the national security needs of this country with the humanitarian needs of legitimate asylum applicants. In fact, almost at the same time that this report was made public, the 11th defendant in a significant case "Operation Jakarta" involving asylum fraud and document fraud pleaded guilty in a Federal court in Virginia. What is being done to review these programs and evaluate the specific recommendations of the Commission?

Answer. The Department of Homeland Security established a working group to review and respond to the recommendations suggested by the Commission. The working group will issue an evaluation on those recommendations this summer.

*Question.* What steps have been taken as a result of "Operation Jakarta" to track down anyone who received benefits fraudulently because of this criminal enterprise and remove them from the United States?

Answer. During the course of the criminal investigation, the USCIS Asylum Offices have reviewed 12,000 Indonesian asylum cases in order to identify all fraudulent cases related to "Operation Jakarta." Approximately 800 principal asylum cases were directly linked to the perpetrators of the fraud and will be processed for termination. Due to the high volume of fraud cases, the Asylum Offices have created teams of Asylum Officers to process the cases expeditiously. As the cases are terminated, the individuals will then be referred for judicial review to the Executive Office of Immigration Review (EOIR). All of the individuals that applied for and/or received benefits associated with this fraud will be entered as "lookouts" in the Treasury Enforcement Communications Systems (TECS).

#### USE OF STOLEN PASSPORTS—INSPECTOR GENERAL REPORT

*Question.* In December of 2004, the Department of Homeland Security's Office of Inspector General issued a report entitled "A Review of the Use of Stolen Passports from Visa Waiver Countries to Enter the United States". Both ICE and CBP concurred with the recommendations in this report. What progress has ICE and CBP made to implement those recommendations?

Answer. ICE and CBP have implemented coordinated standard operating procedures to ensure ICE receives information on all individuals present in the United States who entered on a lost or stolen passport. On January 28, 2005, the Director of the National Targeting Center (NTC) sent the ICE Compliance Enforcement Unit

(CEU) a letter confirming the agreement between ICE and CBP. CBP will ensure lookouts are placed on all lost or stolen passports, conduct appropriate database queries, and forward information to the CEU on anyone present in the United States who entered on a lost or stolen passport.

*Question.* Please provide the Committee with a detailed, item by item, breakout of any fiscal year 2004 representation funds that were allocated to CBP, CIS, ICE, and the Under Secretary for Border and Transportation Security.

*Answer.* The requested information has been provided in the tables below.

Organizational element	Fiscal year 2004 appropriated	Fiscal year 2004 obligated
Office of Under Secretary for BTS .....	.....	.....
CBP .....	\$40,000	\$37,661
ICE .....	15,000	6,837
USCIS .....	5,000	4,953

#### FISCAL YEAR 2004 SUMMARY OF RECEPTION & REPRESENTATION FUND OBLIGATIONS

Date	Event	Amount
U.S. Customs and Border Protection		
30-Oct-03 .....	Official luncheon held in honor of U.S./Mexico Border Partnership Meeting.	\$381.14
13-Nov-03 .....	Protocol Supplies .....	170.98
03-Nov-03 .....	Refreshments served at the Operation Safe Commerce Meeting.	74.82
08-Nov-03 .....	Sponsor the Ministers from Trinidad & Tobago at the Marine Corps Ball in Trinidad in furtherance of CMAA negotiations.	150.00
12-Nov-03 .....	Refreshments for meeting hosted by Deputy Commissioner with Mexican Delegation.	21.09
17-Nov-04 .....	Official Dinner in honor of Lars Karlsson, 2nd Deputy Director General, Sweden Customs.	402.82
19-Nov-03 .....	Official Dinner with officials from New Zealand during CIS Discussions.	923.55
02-Dec-04 .....	Official reception for the opening of the CSI Port in Durban, South Africa.	326.97
12-Dec-03 .....	Protocol Supplies—Commissioner of Customs office .....	1,200.00
18-Dec-04 .....	Official Reception hosted by Commissioner of Customs in honor of foreign dignitaries and high level officials from various Embassies.	10,523.50
21-Jan-04 .....	Honorary Award Item for WCO Regional Security Conference in Senegal.	95.00
21-Jan-04 .....	Official luncheon hosted by Chief De La Vina in honor of Mexican Officials, Fernando Creixell and Agustin Caso.	148.00
23-Jan-04 .....	Official luncheon in honor of Canada Border Security Agency, President Alain Jolicoeur and Director Greg Boatbe.	213.68
28-Jan-04 .....	International Customs Day Reception .....	3,473.00
29-Jan-04 .....	Official dinner hosted by Secretary Ridge in honor of Canadian Prime Minister and delegation.	1,487.20
24-Feb-04 .....	Official Luncheon for Italian Delegation during CSI Program Review.	608.00
03-Mar-04 .....	Flowers sent on behalf of Customs and Border Protection upon the death of Comptroller of Customs, Robin Dare (New Zealand).	219.06
24-Mar-04 .....	Official luncheon hosted by Acting Assistant Commissioner, International Affairs in honor of Mr. Kaci Abes, Director, External Cooperation & Relations.	125.13
22-Apr-04 .....	Protocol Supplies for US/EU Signing .....	261.52
28-Apr-04 .....	Official Luncheon hosted in honor of US/EU signing and the Joint Customs Cooperation Committee.	379.10
08-May-04 .....	Protocol Supplies—Office of Trade Relations .....	10.60
13-May-04 .....	Official luncheon hosted in honor of Mr. Mu Xin-Sheng, Minister, General Administration of China Customs and his delegation.	592.62

## FISCAL YEAR 2004 SUMMARY OF RECEPTION &amp; REPRESENTATION FUND OBLIGATIONS—Continued

Date	Event	Amount
24-May-04 .....	Refreshments during meetings held with the European Community & U.S. Expert Groups on Container Security.	616.92
08-Jun-04 .....	Dinner hosted by Commissioner Bonner in honor of the U.S./Canada Shared Border meeting.	450.00
08-Jun-04 .....	Official Luncheon hosted by Commissioner Bonner in honor of U.S./Canada Shared Border meeting.	514.30
08-Jun-04 .....	Official Reception hosted by Commissioner Bonner at the U.S./Canada Shared Border Meeting.	1,967.06
14-Jun-04 .....	Official luncheon hosted by Commissioner Bonner in conjunction with the U.S./Mexico Bilateral Meeting.	216.25
16-Jun-04 .....	Official luncheon hosted by Acting Assistant Commissioner, International Affairs in honor of high level Georgian Officials.	562.50
22-Jun-04 .....	Official luncheon hosted by Acting Assistant Commissioner, INA for the New Zealand delegation attending the WCO Policy & Commission meetings..	323.01
25-Jun-04 .....	Official luncheon and toast hosted by Commissioner Bonner at the signing of the CSI agreement with the Hellenic Republic.	421.65
28-Jun-04 .....	Official Luncheon hosted by Commissioner Bonner for high level French Customs officials.	495.00
14-Jul-04 .....	Refreshments for CSI Global Targeting Assembly of Technical Experts Conference.	297.01
27-Jul-04 .....	Official luncheon hosted by Acting Deputy AC, INA for attendees of the U.S./Australia Regional Movement Alert List System Conference.	878.41
04-Sep-04 .....	Protocol Supplies—Director, Trade Relations .....	27.73
15-Sep-04 .....	Refreshments during conference with Russian officials and CBP on Passenger Name Record connectivity.	106.60
22-Sep-04 .....	Protocol Supplies—AC, INA and Commissioner Bonner's Office.	290.76
22-Sep-04 .....	CSI PTP, Malaysia Luncheon .....	301.62
23-Sep-04 .....	Honorary Award Items for Foreign Officials .....	8,404.74
Total Obligation .....	.....	37,661.34
 U.S. Immigration and Customs Enforcement		
11-Dec-03 .....	Assistant Secretary Holiday Reception for members of Congress and other dignitaries.	1,325.89
3-Feb-04 .....	International Attaché briefing w/light refreshments hosted by the Federal Air Marshal Services. Dignitaries and honorable guests traveled from Netherlands, Austria, Japan, China, Belgium, Egypt, Philippines, Brazil, New Zealand, Hungary, et.al.	717.75
2-Mar-04 .....	Breakfast with Danish Minister at ICE .....	205.53
3-Mar-04 .....	ICE One Year Anniversary Event attended by Captains, Chiefs of Police, State Police Officials, and representatives of other Federal Agencies.	299.06
20-May-04 .....	Luncheon event for the Office of the Assistant Secretary with local officials and dignitaries who made substantial contribution to Nation or DHS.	416.75
8-Jun-04 .....	Detention and Removal Operations Dinner during Four Country Conference in San Diego, CA to address mutual immigration and removal issues. Hosted by DRO; attendees included representatives from the Embassy of Australia; Canada Border Protection Agency; United Kingdom Immigration Service; and other foreign officials.	203.66
20-Aug-04 .....	Opening ceremony for ICE Air and Marine Operations—Bellingham Branch; attended by U.S. Senator Patty Murray, U.S. Representative Rick Larsen, and other Congressional representatives.	490.00

## FISCAL YEAR 2004 SUMMARY OF RECEPTION &amp; REPRESENTATION FUND OBLIGATIONS—Continued

Date	Event	Amount
18-Sep-04 .....	Purchase of food and beverage items for AMO ceremony .... ICE Air and Marine Operations briefing and site visit for Congresswoman Kay Granger and others. Includes purchase of refreshments for the event.	476.08 2,702.13
Total Obligation .....	.....	6,836.85
U.S. Citizenship and Immigration Services		
	Kitchenware supplies for Director's suite, for hosting VIPs and dignitaries.	389.07
	Honorary award items (coasters) for VIPs and dignitaries ....	998.93
	Official luncheon with dignitary Eduardo Ibarolla and Director Aguirre.	25.77
	Official dinner with incoming Mexican Ambassador Icaza and Director Aguirre to establish professional rapport.	220.96
	Honorary award item (Cufflinks) for guest speaker at USCIS 2004 Director's Leadership Conference.	79.95
	Honorary Award Items (Cufflinks) for senior representative and foreign dignitaries during official travel and visits.	1,075.95
	Honorary Award Items (Lapel Pins) for distribution by Director Aguirre during official travel and visits.	1,135.00
	Honorary Award Items (Pewter bowls and platters) for high-level dignitaries.	1,000.00
	Official Luncheon with senior-level guest (Alecia Casteneda) to establish professional interagency rapport.	27.52
Total Obligation .....	.....	4,953.15

## SECURE ELECTRONIC NETWORK FOR TRAVELERS RAPID INSPECTION PROGRAM (SENTRI)

*Question.* In June of 2004 the Department of Homeland Security's Office of Inspector General (OIG) issued a report on the Secure Electronic Network for Travelers Rapid Inspection program, known as SENTRI. CBP agreed with the recommendations made by the Inspector General. Please provide an update on the progress that has been made in implementing each of the OIG's recommendations regarding the SENTRI program.

*Answer.* On January 24, 2005, a new Standard Operating Procedure (SOP) Manual was sent to the San Diego, CA, and El Paso, TX, Field Offices for the administration of the SENTRI program that addressed the majority of the recommendations in the OIG's report, including stating clearly the program eligibility criteria, establishing procedures for background checks and their resolution, developing minimum documentary requirements, separation of duties between initial enrollment and final approval, monitoring continued eligibility, and recording SENTRI violations. Certain other recommendations, relating to the Global Enrollment System and integration with related information systems are awaiting technical upgrades to achieve completion.

## IMMIGRATION ADVISORY PROGRAM

*Question.* The Immigration Advisory Program is designed to improve border security against the threat of terrorism by enabling CBP to identify and intercept suspected terrorists and undocumented passengers before they board planes bound for the United States from overseas locations. The pilots established in Amsterdam and Warsaw in 2004 appear very promising. The fiscal year 2006 request includes funds to expand this program to two additional airports. Can, or should, this program be expanded more quickly?

*Answer.* Based on the results from Amsterdam and Warsaw through February 28, 2005, CBP believes the IAP should be expanded and has great potential for similar success at other large European, Latin American, and Asian hub airports. IAP expansion is dependent on reaching a bilateral agreement with the host country government and will be rolled out as expeditiously as possible while ensuring operational connectivity to port of entry operations.

*Question.* Please provide any evaluations or reports on the effectiveness of the IAP pilots.

*Answer.* Accomplishments for June 5, 2004, to February 28, 2005, for Amsterdam and September 5, 2004, to February 28, 2005, for Warsaw follow:

No Board Advisements .....	222
Fraud Intercepts .....	34
NTC Targets Confirmed .....	16
CBP Costs Avoided .....	\$334,554
Potential Carrier Savings .....	\$414,150

#### CUSTOMS-TRADE PARTNERSHIP AGAINST TERRORISM

*Question.* The fiscal year 2006 budget requests an additional \$8.2 million to expand the Customs-Trade Partnership Against Terrorism (C-TPAT). The fiscal year 2006 President's budget states that as of January 12, 2005, CBP had reviewed and accepted the security profiles of 4,460 companies, making these companies certified partners. The next step in the process is validation. According to information that was submitted for the record after last year's hearing, CBP planned to complete 400 validations of C-TPAT certified partners in fiscal year 2004. Was that goal met last fiscal year (fiscal year 2004)?

*Answer.* CBP initiated 500 validations and completed 287 during 2004. As of March 25, 2005, over 540 validations have been completed, with an additional 400 underway or in various stages of completion. CBP anticipates that over 900 validations will be completed by the end of fiscal year 2005.

In fiscal year 2004, CBP created a new position, Supply Chain Specialist (SCS), and sought to recruit qualified officers throughout the year. CBP continues to aggressively recruit permanent Supply Chain Specialists, and has trained field officers to help assist in the initiation of validations.

*Question.* What is the target number of validations CBP plans to complete in fiscal year 2005?

*Answer.* CBP will complete 500 validations in fiscal year 2005, for a total of 900 since the inception of program.

The overwhelming response by the trade community (volume of applications) forced CBP to reconsider the original goal to validate all certified members within a 3-year period.

CBP's strategy is for C-TPAT to determine and prioritize which sectors of membership will be selected for validations, selecting individual companies based upon a standardized risk assessment, and identifying "company specific" high-risk supply chains to better focus our efforts/resources.

*Question.* How many more validations will CBP be able to complete each year with the new resources that have requested?

*Answer.* The fiscal year 2006 request of \$8.2 million will allow CBP to conduct as many as 600 more validation trips per year. Oftentimes, multiple validations are conducted on a single trip.

CBP anticipates having 100 Supply Chain Specialists (SCSs) on board by the end of fiscal year 2005. Each SCS is expected to complete 17 validation trips per year, with more than one validation conducted per trip. With 100 SCSs on board, CBP anticipates completing 1,700 validation trips per year. When fully staffed with SCSs, CBP could complete 2,669 validation trips per year.

*Question.* Last year, the Committee was informed that validations of foreign manufacturers would begin in calendar year 2004. Was that review of foreign manufacturers begun last year (calendar year 2004)?

*Answer.* During calendar year 2004, CBP initiated 500 validations of importers' foreign supply chains, which includes foreign manufacturers, and completed 287.

Validations of the Mexican manufacturer enrollment sector began in earnest in March 2005. Additional validations of Mexican manufacturers are being planned for June 2005.

#### AMERICA'S SHIELD INITIATIVE

*Question.* The President's fiscal year 2006 Budget includes a request of \$19.8 million for the America's Shield Initiative (ASI). These funds will allow CBP to begin deployment of next generation technology for electronic surveillance along our Nation's land borders.

CBP is working on awarding a contract for the integration of ASI sometime this year. At the same time, CBP needs to operate and maintain the equipment that is in the field today. There are currently significant critical operational breakdowns,

cameras with unusable pictures, cameras down due to lightening strikes, camera control problems, cameras that have been replaced but are missing enclosures. In fact, the maintenance contract for the current installations lapsed in September of 2004, and CBP is still working on finalizing the replacement of those services. What is the plan to get the maintenance backlog taken care of?

*Answer.* As noted, CBP is moving ahead with plans to develop and implement the America's Shield Initiative (ASI), which will provide a more comprehensive, integrated solution to electronic surveillance the border. But simultaneously, CBP is still working to ensure that existing border surveillance infrastructure remains operational. For example, with regard to operational Remote Video System (RVS) installations in the field, activities are underway to address repair issues for operational sites. In addition, data and lessons learned from these current activities are being used to provide baseline data towards the development of an interim operations, maintenance, and repair program. This interim program will provide maintenance and repair support to existing field equipment pending the development and implementation of a maintenance and repair program that will support both existing and new field equipment.

Currently within CBP, the ASI Program Management Office (PMO), the National Emergency Equipment Repair and Maintenance Program (NEEMR), and the Tactical Communications Organization (TCO) have partnered to address several of these repair issues. For example, NEEMR, TCO, and the ASI (PMO) partnered to address the lightning strike incident that occurred at the Douglas, AZ Border Patrol RVS site. A team consisting of these three components responded to repair this installation. That activity was initiated at the beginning of February and concluded at the beginning of March. The result of this activity was the repair of the installation to a pre-lightning strike state, an assessment of current installation issues, and a collection of significant amount of baseline data regarding how these components worked together.

*Question.* When will the maintenance backlog be cleared up?

*Answer.* Establishing the ASI Program Management Office and the partnership with the National Emergency Equipment Repair and Maintenance Program (NEEMR) and the Tactical Communications Organizations (TCO), and awarding contracts for parts and equipment repair to original equipment manufacturers has significantly reduced the maintenance backlog. CBP believes that the maintenance backlog will be completely eliminated during the summer of 2005.

*Question.* This fiscal year, the plan for ASI calls for spending \$10 million on surge technology. Please provide an explanation of what this is and what the plans are for this surge technology?

*Answer.* Surge technology is surveillance equipment that can be rapidly deployed in self-contained system packages that have the mobility and deployment capabilities to allow it to be positioned in a very short period of time to support changes in national operational needs. The plan at this time is to procure vehicle-mounted ground radar equipment that is co-mounted with a cooled, thermal imaging system that can sense and identify a vehicle as well as a human over 5 miles away. A system of this type will allow the detection and tracking of multiple items-of-interest and provides vectoring information to agents on the ground. By virtue of their mobility and transportability, CBP will be able to deploy these assets to the geographic regions or corridors that align with the current, nationally-assessed threat environment.

*Question.* CBP also plans to spend \$10.6 million for replacement/repair of ground sensors in fiscal year 2005. Given that plans are in place to possibly award an integration contract to upgrade all of this technology, why are we replacing ground sensors now? Is it possible we will be replacing these again with something new in just a year or two?

*Answer.* In the early 1990's, the Federal Communications Commission (FCC) modified the spectrum range of commercial and government frequency usage. As such, CBP is required to change its systems to support the FCC frequency spectrum allocation requirements. CBP's Office of Border Patrol (OBP) is purchasing new unattended ground sensors to further augment its already deployed sensor fleet, to meet operational objectives, and to meet these FCC requirements.

An objective of this procurement effort is to ensure compatibility with any future systems that are acquired. Replacement of newly procured unattended ground sensors in a year or two is not anticipated. An objective of this procurement is to ensure that these sensors will readily integrate with future systems.

A cost analysis is being performed regarding the ability to upgrade our currently deployed unattended ground sensors that were procured and deployed prior to the FCC frequency spectrum allocation modification. This effort is also being under-

taken in such a manner as to ensure that these upgrades are made to meet FCC requirements and future systems integration.

*Question.* What is the timeline for initiating and completing all identified ground sensor repairs?

Answer. A proposal has been developed to augment sensor capabilities in Tucson Sector with 1,240 new digital sensors. As these sensors are deployed, the "old" sensors that are replaced, or rotated in from the field will, be assessed for redeployment to other Sectors as needed and in alignment with current enforcement objectives and national threat assessments. The project is scheduled to begin June 2005, with projected completion March 2008.

#### AUTOMATED COMMERCIAL ENVIRONMENT

*Question.* CBP has been working on modernizing the information technology systems that it uses for some time. The most significant project is the Automated Commercial Environment, known as ACE. Last year, CBP released the re-baseline estimate for completion of the ACE system. The new schedule has ACE being fully deployed in 2011, and costing an additional \$1 billion. How confident is CBP that this new timeline can be accomplished?

Answer. CBP is confident the project can be completed in that time frame. That said, the new proposed baseline is presently under review. CBP will continue to strive to find ways to deliver ACE better, sooner, and at less cost. In addition, CBP has worked to improve ACE management. The staffs of legacy systems were merged into the CBP Modernization Office last December. The merger greatly increased the number of government staff on the program, as well as available subject matter expertise and IT project management skills. This will help keep the program on budget and schedule.

CBP now also has the advantage of working with an operational system. Release 3, implemented in June 2004, is fully operational and has already increased the amount of duty collected via Periodic Monthly Statement from \$80,000 in June to over \$109 million in February 2005. The Release 4 pilot in Blaine, Washington although currently experiencing some technical problems, has processed over 40,000 trucks. Having these ACE systems operating in "real-world" CBP environments provides excellent experience and feedback for the program team, and provides a solid base on which to build future capabilities.

*Question.* What is the status of the pilot in Blaine, Washington, of e-Manifest Trucks?

Answer. The ACE truck cargo/eManifest pilot was initiated in Blaine, Washington, on December 12, 2004. The system was very well received by the CBP Officers in the port, demonstrating a number of improvements over previous systems. However, system issues were uncovered, which caused delays in the processing of trucks. This resulted in a temporary halt to the pilot in late December in order to implement necessary changes.

The ACE pilot was re-started in mid-January with improved capabilities and significant streamlining of the cargo screening and release functions. With these changes, ACE has been processing trucks, on average, more quickly than the different release systems that had been in use prior to ACE. Average truck processing times were in the 70 second range.

Additional problems with the pilot were uncovered in early March. These problems were manifested as a result of the increased volume of trucks being processed (over 40,000 trucks had been processed with ACE). The problems have been corrected, and the revised system has been tested. Since the testing results were positive, CBP re-started the pilot April 4.

Part of the reason for difficulties with the pilot has been the low volume of electronic manifests submitted by carriers and service providers. A combination of difficulties with the CBP eManifest certification process and the effort required by the trade participants to make changes to their systems have led to the low participation. However, for those eManifests that have been submitted, ACE has performed extremely well, demonstrating the full promise of the system. CBP is working closely with the carrier community to increase, as quickly as possible, their use of eManifests.

CBP firmly believes that the current problems with the ACE pilot will be quickly corrected and the pilot will be operating successfully in the Port of Blaine. Plans have been developed to expand ACE to additional ports on the northern and southern land borders. Efforts are also underway to support 28 new carriers and service providers who have stated their intentions to begin providing eManifests.

## AIR AND MARINE OPERATIONS—RECAPITALIZATION

*Question.* A request for funding to begin the re-capitalization of the Border Patrol air fleet was included in the fiscal year 2006 budget, but there is no request for the replacement of Air and Marine's fleet. When can we expect to see such a request?

*Answer.* A program increase for re-capitalization of the Air and Marine Operations (AMO) fleet is not included in the fiscal year 2006 President's Budget, however, the fiscal year 2006 AMO base budget does include approximately \$55 million for the procurement of replacement aircraft and deployment of new aircraft to CBP air wings.

Modernization of CBP air and marine assets is a priority in order to meet expanded missions in the areas of detection, surveillance, deterrence and apprehension, search and rescue, interdiction and Airspace Domain Security.

CBP is currently conducting a review of AMO and Border Patrol air and marine missions, operations and assets with the objective of determining how best to allocate and manage resources. It is anticipated that areas of both integrated and distinct aviation and marine missions will be defined, and opportunities for combining fleet modernization requirements will be identified. The existing AMO and Border Patrol modernization plans will be reviewed in the context of supporting the updated mission needs resulting from the transition analysis. All opportunities for commonality of aircraft, vessels, facility locations, command and control, maintenance and procedural standards are being reviewed. Potential benefits include enhanced threat engagement, procurement cost efficiencies, reduced life cycle costs, increased mission readiness and operational performance.

Development of a unified recapitalization plan for all CBP air and marine assets is will commence following completion of the integration.

## WORKSITE ENFORCEMENT

*Question.* The President's budget requests \$18 million for Immigration and Customs Enforcement (ICE) to double the resources devoted to worksite enforcement. The President's budget does not request any additional investigators for this program. Are there a sufficient number of investigators to pursue any leads or cases that may be developed?

*Answer.* ICE's fiscal year 2006 President's Budget requests \$18 million for the temporary worker program to fund 140 agents and investigations training. It is proposed that the agents be assigned to field offices nationwide primarily to conduct employer audits, examine and prioritize leads, prepare and deliver Notices of Inspection and Notices of Inspection Results, and develop employer cases involving administrative fines. Agents would be assigned to field offices in the States with the greatest number of unauthorized workers.

The requested resources would enable ICE to increase its presence at worksites in specific industries and geographical areas, concentrating on employers who intentionally violate the law or who have historically hired large numbers of unauthorized workers.

*Question.* Please provide the Committee with a description of ICE's current worksite enforcement program, including what authorities are being enforced and how the program is run.

*Answer.* ICE worksite enforcement program activities focus primarily on removing unauthorized workers from critical infrastructure facilities to reduce the risk of terrorist attack from insiders. This may be accomplished through screening and arrest operations to identify and remove the unauthorized workers, as well as through strategic partnering with employers and the law enforcement entities controlling facility access. ICE worksite enforcement activities also target criminal employers whose violations have a nexus to human smuggling, immigration document or benefit fraud, and worker exploitation.

The authorities being enforced generally include one or more of the civil and/or criminal provisions of INA 274A (Unlawful Employment of Aliens). Many criminal employer investigations also charge violations relating to harboring, smuggling, and document fraud.

*Question.* Please provide the Committee with a breakout of worksite enforcement workload of administrative cases versus criminal investigations for fiscal years 1999 through 2004, including a breakout of the FTE devoted to this area by type of employee for those same years.

*Answer.* Please see table below.

Performance category	Fiscal year					
	1999	2000	2001	2002	2003	2004
Criminal Employer Cases .....	1 182	1 109	1 239	1 21	1 4	3 59
Notices of Intent to Fine Issued .....	1 443	1 213	1 141	1 73	1 16	1 3
Number of Fines Collected .....	4 890	4 478	4 292	4 115	4 54	4 64
Fine Amounts Collected .....	<sup>4</sup> \$3,690,575	<sup>4</sup> \$2,234,181	<sup>4</sup> \$1,599,323	<sup>4</sup> \$509,835	<sup>4</sup> \$212,322	<sup>4</sup> \$118,528
Worksite Arrests .....	5 2,849	5 953	5 418	6 816	6 505	6 642
Investigative Work Years (Work Year=1,695 hours) .....	5 278	5 202	5 134	5 152	5 105	5 90
Case Completions .....	5 3,844	5 1,966	1 1,595	1 2,061	1 1,490	7 523

<sup>1</sup> Source: LYNX.<sup>2</sup> Source: TECS.<sup>3</sup> Calculated utilizing Treasury Enforcement Comms System(TECS) records (criminal employer cases opened).<sup>4</sup> Source: Debt Management Center.<sup>5</sup> Source: PAS.<sup>6</sup> Manually calculated utilizing internal reports submitted by field offices.<sup>7</sup> Manually calculated based upon the number of completed cases in LYNX and the number of cases reported closed in TECS.

#### VISA SECURITY UNIT

**Question.** The President's budget requests an increase of \$5 million to expand the Visa Security Unit. The recently submitted "Visa Security Program: Annual Report for 2003–2004" talks about the critical need for coordination and training with the Department of State Consular Affairs and CBP. What mechanisms are in place to ensure that there is the closest possible cooperation in this program?

**Answer.** The Visa Security Program (VSP) within ICE is responsible for implementing Section 428(e) of the Homeland Security Act, which calls for the deployment of DHS officers to visa-issuing posts, unless such a deployment would not benefit homeland security. One of their principal duties under Section 428(e)(1) is to provide advice and training to consular officers regarding specific security threats relating to the adjudication of individual visa applications or classes of applications. DHS Visa Security Officers in Saudi Arabia are currently providing this training, and upcoming deployments of Visa Security Officers will expand this activity to additional posts. In addition, ICE and the Department of State have designated points of contact at Headquarters who coordinate closely on issues including consular training. A representative from the Visa Security Program has briefed each graduating class of consular officers since October 2004.

VSP also coordinates with CBP on several operational levels. Visa Security Officers regularly utilize the National Targeting Center as a supporting element in their in-depth review of visa applications. In addition, CBP officers have served temporary details at Headquarters and in the field. Finally, VSP has opened announcements for permanent positions to both ICE and CBP officers in order to recruit officers with a full range of immigration enforcement skills to serve overseas as Visa Security Officers.

The President's requested increase of \$5 million in fiscal year 2006 will fund expanded VSP operations in the field and at Headquarters, to include its consular training responsibilities.

**Question.** In August of 2004, the Department of Homeland Security's Office of Inspector General issued an evaluation of DHS activities to implement section 428 of the Homeland Security Act of 2002. This evaluation included a number of recommendations to improve the workings of the Visa Security Officers. What is the status of implementing each of the recommendations in that report?

**Answer.** Since the DHS Inspector General's (IG) evaluation in late 2003, shortly after the initial deployment of officers to Saudi Arabia, Visa Security Program operations in Saudi Arabia have made significant progress. Of the IG's twelve recommendations, three had been closed at the time of the report's publication. The remaining nine recommendations were resolved, and remain open while they are implemented. Below is an update on each of the IG's recommendations.

**Recommendation 1.**—Develop a curriculum of homeland security training for consular officers consistent with the requirement in Section 428(b)(1) of the Act.

ICE is working to develop homeland security training for consular officers. A VSP's program development staff member has attended the Basic Consular Training Program at the Department of State's (DOS) National Foreign Affairs Training Center (NFATC) as a basis for ICE's recommendations to DOS about consular training. VSP staff also held a curriculum development conference with training experts from the Federal Law Enforcement Training Center (FLETC) and ICE Academy to plan the development of the consular training program. Since October 2004, VSP leadership has been addressing each graduating class from the Basic Consular Training

Program, to introduce them to the visa security mission and to prepare them to work with Visa Security Officers in the future.

*Recommendation 2.*—Develop a training program for Visa Security Officers (VSOs) that includes foreign languages, country studies, and interview and fraud detection techniques.

Working with the ICE Academy and FLETC, VSP developed a 4-week training curriculum for Visa Security Officers, incorporating the IG's content recommendations. With specific regard to language training, ICE's VSO selection criteria will continue to emphasize language ability, and VSP will continue to exercise best efforts to provide additional language training where necessary.

*Recommendation 3.*—In coordination with DOS, develop performance standards to evaluate consular officers.

ICE continues in an audit capacity, to advise DOS on consular performance evaluation. A VSP staff member recently attended Basic Consular Training to assess how consular officers currently are trained and evaluated.

*Recommendation 4.*—Develop written criteria for assigning VSOs to other countries.

Closed. ICE established such criteria in early 2004, and the OIG closed this recommendation as it published the report in August 2004.

*Recommendation 5.*—Assign responsibility to develop and publish the report to Congress required by Section 428(e)(4).

ICE/VSP will prepare the report, and BTS will submit the report to Congress.

*Recommendation 6.*—Conduct a study of the personnel management techniques used by other agencies with a global workforce and evaluate ways to facilitate the overseas rotations of DHS employees.

DHS is continuing to evaluate its international presence. No specific policy recommendations have yet been announced.

*Recommendation 7.*—Discontinue the practice of filling the VSO positions with temporarily assigned officers and move toward filling the positions with permanently assigned officers.

VSP has announced and selected positions for Saudi Arabia. VSP will announce permanent positions for all future offices.

*Recommendation 8.*—Establish criteria for selecting VSOs based on required experience and skill sets to support the visa security operation.

Closed. ICE established such criteria in early 2004, and the OIG closed this recommendation as it published the report in August 2004.

*Recommendation 9.*—Establish a funding mechanism to ensure that the visa security operations receive all required support and that DOS is promptly reimbursed for the support that it provides.

VSP has received funding in fiscal year 2005 for its existing posts in Saudi Arabia and for expansion to four additional locations. This will become the base for fiscal year 2006 and the out-years for all locations opened in or already in operation as of fiscal year 2005. To facilitate administrative coordination, DOS and VSP recently signed a Memorandum of Agreement that explains how reimbursements and other administrative matters will be handled.

*Recommendation 10.*—Propose a technical correction to Section 428(i) to align it with Section 428(e) and permit DHS to review only those applications with homeland security interest in Saudi Arabia.

Closed. The OIG agreed with ICE's position that the legal requirement to review all visa applications in Saudi Arabia should not be modified. The OIG closed this recommendation as it published the report in August 2004.

*Recommendation 11.*—Evaluate the possible benefit of analyzing the existing visa applications in DOS files of young Saudi males who were issued visas in the 2 year period prior to September 11, 2001. BTS should coordinate with DOS, the FBI, and other Federal agencies, as necessary, before making a determination about whether, or how, to proceed to analyze the applications.

ICE agrees that there may be value in reviewing certain applications submitted in Saudi Arabia in the 2 years prior to September 11, 2001. DHS is still evaluating whether or how to proceed with such an analysis.

*Recommendation 12.*—Develop an interface between BTS and DOS computer systems that permits a fast and efficient method to automate the visa security name check process and eliminate the duplicative data entry for database checks.

ICE has been working with DOS to improve information sharing and access and has succeeded in virtually eliminating the manual data entry that the IG observed in late 2003/early 2004. VSP is working with DOS to further enhance regular information sharing and expects the new process to be in place in the third quarter of fiscal year 2005.

## OVERHEAD COST SHARING

*Question.* Last fiscal year and this fiscal year, ICE plans to charge a portion of the headquarters overhead costs to the Federal Protective Service (FPS) and the Federal Air Marshals (FAMS). On what basis were the overhead charges calculated to ensure that those organizations were paying for services they received on a basis proportionate to their usage?

Answer. Early in the fiscal year, FPS and/or FAMS were expected to provide funding for overhead based on the actual costs for services. The headquarters (HQ) overhead costs are allocated to the ICE components using full-time equivalents (FTE), at the beginning of the fiscal year, to construct the proration percentages. Following a review of the overhead costing issue for the FAMS and FPS, a final decision was made that the FAMS and FPS would only pay for services actually being utilized. However, they will not be assessed an overhead charge in fiscal year 2005.

*Question.* Will this become a permanent charge to FPS and FAMS? If so, why are no additional resources being requested to ensure that the funds are available to pay these bills?

Answer. All ICE Programs, Projects and Activities (PPAs) should be expected to share HQ overhead costs for the overhead services that ICE provides. However, for fiscal year 2005 there will not be an assessment for FPS and FAMS.

HQ overheads are covered out of base appropriated funds. Additionally, every new enhancement request includes funds for HQ overhead in the modular costs used to compute the enhancement.

*Question.* Will this have an adverse impact on the ability of the FAMS to maintain its staffing levels?

Answer. No, the FAMS are not being assessed an overhead charge.

## FUGITIVE OPERATIONS

*Question.* The President's budget requests an increase of \$8.8 million to expand the capabilities of the fugitive operations teams. In answer to questions submitted after last year's hearing, ICE stated that the strategic plan called for the elimination of the 400,000 fugitive backlog within 10 years based on significant increases in the fugitive program.

What impact are the continued funding shortfalls having on the Office of Detention and Removals' ability to implement that plan?

Answer. ICE continues to track and apprehend fugitives and continue to surpass goals and previous year's statistics. However, some existing teams need additional staff that have not yet been hired, and no new teams have been deployed. When corrected later this year, this delay will have no effect in meeting the 10-year plan.

*Question.* Does the fiscal year 2006 budget request include sufficient resources for ICE to continue making progress in locating and deporting absconders?

Answer. Yes. The fiscal year 2006 Budget will allow ICE to show significant progress in locating, apprehending and removing absconders.

*Question.* Has ICE been able to move ahead with the data integrity projects related to the absconder records despite the funding situation? What results have been seen from the data integrity projects?

Answer. ICE has been investigating data integrity issues with the records of absconders. ICE drew random samples of records of aliens with an unexecuted order of removal that did not indicate that the alien was an absconder. There are approximately 130,000 such alien records (does not include aliens with an acceptable reason for an unexecuted order). The samples indicated that almost 70 percent of those aliens were absconders. The absconder statistics have been revised accordingly. DRO estimates that the absconder population on September 30, 2004, was 465,353 aliens.

ICE believes that the new data system to track aliens in removal proceedings (EREM) will address many of the data integrity concerns. The data system will be easier to use which will encourage completeness and accuracy. It will also be more tightly integrated with the work process used in an alien's case.

## FEDERAL AIR MARSHALS

*Question.* On January 27, 2005, ICE announced the creation of the Federal Air Marshals (FAMS) Advisory Board. The advisory board will provide information and recommendations on key FAMS policy and operational issues. Some of the issues the FAMS Advisory Board will initially address are hiring, dress code, technology, the FAMS role in airport security and the FAMS career ladder within ICE. When does ICE expect that the advisory board will begin making recommendations on some of these issues?

**Answer.** While it is difficult to predict with specificity when the FAMS Advisory Board will be prepared to make recommendations, the Board is currently meeting on a regular basis. One of the objectives of the Board is to increase the pace of the FAMS integration into ICE. To that end, the Board hopes to be in a position to make recommendations in the near future.

#### INSTITUTIONAL REMOVAL PROGRAM

**Question.** What progress has been made in transitioning the Institutional Removal program from the Office of Investigations to the Office of Detention and Removals?

**Answer.** In the planning for the transition of responsibility from the Office of Investigations (OI) to Detention and Removal Operations (DRO), a review of performance standards and available resources was completed.

This review found less than 50 percent of criminal aliens were being identified and removed from the United States (comparing State Criminal Alien Assistance Program (SCAAP) numbers to the Performance Analysis System (PAS)).

The prior performance standard based on the number of aliens removed is not reflective of the function of the Criminal Alien Program (CAP). The performance standard for DRO will be the percentage of incarcerated foreign born screened for removal. A performance level of 90 percent of all foreign-born incarcerated in Bureau of Prisons, State department of corrections and mega-counties (areas with populations over 1 million) will provide a high level of coverage throughout the United States. Smaller population areas would be encouraged to participate in 287(g) programs or video teleconferencing with newly established VTC centers.

After careful consideration, DRO determined that a state-by-state approach would be the most effective way to ensure a successful transition. By approaching the transition on a State level, staffing plans and proactive communications with relevant State agencies can enhance the productivity and workflow.

The State of New York was determined to be the first State to transition because of the existing work force available in DRO to assist in covering the City of New York. DRO assumed sole responsibility for the City of New York Department of Corrections (NYC DOC) on December 17, 2004. With ten facilities, one satellite facility in Bronx, 120,000–130,000 inmates admitted annually and with an average daily population of 15,000, NYC DOC is one of the largest detention programs in the United States.

The transition at NYC DOC has been remarkably smooth and in the first quarter of fiscal year 2005, improvements have been substantial. In the last quarter of fiscal year 2003, prior to the transfer, 921 of 3,542 incarcerated aliens were screened (26 percent). In the first quarter of fiscal year 2005, there were 1,866 of the 2,696 incarcerated aliens screened (69 percent). Though well below the stated performance level; significant progress has been made without additional staffing. As staffing becomes available, NYC DOC operations will achieve the target level of screening.

The State of New York effort has provided an excellent blueprint for subsequent transfers, and using the lessons learned, DRO has completed transfer plans for California, Florida, Illinois, Arizona and New Mexico.

**Question.** Are there other ways ICE could be working with State and local officials to improve communication in order to identify incarcerated aliens in a more timely manner?

**Answer.** In the planning for the transition of responsibility from the Office of Investigations (OI) to Detention and Removal Operations (DRO), a number of possible communications enhancements have been explored by DRO.

The most basic approach to improve communications is and continues to be open, face-to-face dialogue with the local and State officials to determine the needs and requirements of both parties, to establish an approach to accomplish the mutual goals, and to maintain an open line of communication between the parties.

During the planning for the State of New York, ICE met with State officials that oversee the entire New York State Department of Corrections, Parole and Probation and the State Police. These discussions have led to an enhanced streamlined approach to processing aliens, centralized release of aliens to ICE custody, created a procedure for State of New York Parole to compare information and update their information based on removal information and opened the dialogue to continue improvements in the areas of conviction documents, appeal processes in State courts and new procedures for automated immigration status checks. Dialogue has already been started with the State of California and a meeting between ICE/DRO and the Assistant Chief of Staff of the Governor's office has been planned for the end of March.

ICE has also investigated whether the 287(g) program by State and local governments is another opportunity to train local law enforcement in the authorities as well as what the information provided to them means. The Immigration and Nationality Act (INA) and supportive data bases can be confusing to experienced officers, much less individuals that have not had years of experience in these issues. The formalized training allows for concise communication of status to ensure proper enforcement of the INA. Expansion of the 287(g) program has a direct impact on the DRO program through the additional identification of individuals amenable to removal.

The PEGASUS program is operated under a COPS grant and allows a new venue to share information with local and State authorities. The program provides Sheriffs and municipal law enforcement with secure access to other participating law enforcement agency databases. Through recent presentations, DHS is considering how best to incorporate parts of our databases to assist identification of aliens amenable to removal as well assist DHS in our mission. The databases in question would definitely include the Deportable Alien Control System (DACS) and would allow an automatic data search system via a "pointer system". The possibilities of an automated system would greatly enhance the identification of aliens in removal proceedings and those already removed. The extent of the data sharing that DHS is willing to consider is still under review.

The Law Enforcement Support Center (LESC) continues to provide a one-stop location for searching several data systems. The LESC, currently operated by OI, accepts queries from a multitude of law enforcement agencies and sends responses back to the originating agency. In cases where the alien in question is identified as a removable alien, a detainer is placed by the LESC for the local DHS office to pursue appropriate removal action.

#### FEDERAL PROTECTIVE SERVICE

*Question.* The Federal Protective Service (FPS) has been in the midst of a very difficult transition from the General Services Administration's (GSA) financial management system to that of ICE.

Given the financial problems of ICE, which extend to not having proper internal fund controls, why wasn't more consideration given to having FPS continue to use the GSA financial system for at least 1 more year, or until eMERGE2 was ready?

*Answer.* The Department of Homeland Security, Office of the Under Secretary for Management, initially directed that the FPS transition from the GSA financial management system be completed by October 1, 2003. Following the initial review of the unique financial management requirements needed to support the FPS offsetting collections program, the transition date was extended to October 1, 2004. At the time that this decision was made, ICE felt that the additional year for planning the transition would be sufficient to avoid any major problems. The GSA and ICE Financial Management staffs worked closely to plan for a smooth transition. However, the technical financial and accounting differences between the GSA and ICE financial systems proved to be much greater than either agency had anticipated. The ICE Financial management staff has been following an aggressive plan and timetable to complete the FPS transition by September 30, 2005.

With regard to the specific financial situation, specific planning milestones called for a successful transition of FPS to ICE, as agreed with GSA, FPS and ICE. This plan was successful, with the only contributing factor being data transmission problems from GSA. That situation exacerbated payment problems in the ICE transition. Much of the data from the GSA financial system has had to be manually uploaded into the ICE system, requiring additional quality assurance steps to maintain the highest level of data integrity.

*Question.* The current remediation plan for fixing the financial problems at FPS call for the reconciliation of payments to be finished by March 31, 2005. How will this plan solve all of the problems and ensure that contractors will get paid in a timely manner?

*Answer.* In addition to a full reconciliation of FPS payments, ICE is convening a high level working group to address the financial problems at FPS. This group will evaluate and make appropriate changes in the business process flow to ensure that contractors are paid timely and that financial events are properly and timely recorded. ICE will continue to work with GSA to resolve any discrepancies in the balances transferred. A full reconciliation of financial activities is anticipated by September 30, 2005.

## HUMAN SMUGGLING

*Question.* What is ICE doing in the area human smuggling? What has happened in the Carreto case that was the subject of a recent CBS News report?

*Answer.* Recognizing that global human smuggling is of the nature of organized crime, ICE has employed Task Force methodologies to attack and dismantle the operations and networks that profit from these crimes. An example of this methodology is Operation ICE Storm in Phoenix, Arizona. ICE, in conjunction with partners in the Federal, State, local and foreign law enforcement community, has initiated a task force to address widespread violence, kidnapping, extortion, and other crimes associated with human smuggling. By vigorously applying its money laundering authorities, ICE and our State and local and partners in Arizona have deprived human smuggling organizations of nearly \$7.3 million of their criminal proceeds. Since the inception of ICE Storm in October 2003, over 320 persons have been prosecuted for human smuggling and related crimes and over 170 firearms have been seized. Over 6,700 smuggled aliens have also been arrested and removed from the United States.

ICE is fully supporting the Arizona Border Control (ABC) Initiative, which was developed to focus on criminal organizations and supporting infrastructures that are currently exploiting the Arizona region. ICE's role in this initiative, which is being coordinated closely with other BTS components as well as State, local and foreign law enforcement agencies, focuses on interdiction and investigation efforts to target human and contraband smuggling organizations operating near the Arizona/Mexico border. To date, a total of 635 individuals have been prosecuted as a direct result of those enforcement efforts. In addition to what has already been seized under ICE Storm, approximately \$2.1 million in U.S. currency has been seized and 26 weapons have been removed from the streets.

Since July 2004, ICE has implemented the LAX Initiative, which was developed to address the human smuggling organizations using the Los Angeles International Airport. This operation targets not only the vulnerabilities of airline and border security, but related financial institutions and support industries directly affected by the identified criminal activity. ICE has seized approximately \$1.2 million in U.S. currency, 486 undocumented aliens have been arrested, and there have been 11 Federal prosecutions in connection with these enforcement efforts.

At this time, we cannot comment on the Carreto case, since it is an ongoing criminal investigation.

## BACKLOG REDUCTION PLAN

*Question.* CIS has reduced the benefit application backlog to 1.5 million cases, down from a high of 3.8 million cases in January of 2004. What is the plan for maintaining a 6-month average processing time—once dollars are no longer specifically set aside for this purpose?

*Answer.* USCIS is in the process of reengineering its business practices to ensure that it will be more efficient and effective. USCIS also plans to invest in IT transformation efforts, including a new case management system, to build the necessary infrastructure to ensure that backlogs do not return for the foreseeable future. Finally, USCIS has recently completed an in-depth staffing requirements analysis which will ensure that each USCIS office receives the appropriate amount of staff necessary to maintain the 6-month cycle time standard.

*Question.* What assurances do we have that the productivity gains are not coming at the expense of quality, that the right decisions are still getting made by the adjudicators?

*Answer.* Backlog elimination efforts will not come at the expense of national security or adjudicative integrity. USCIS has struck a solid balance in this area by ensuring that processes facilitate legal immigration, while preventing those who would misuse the system from entering or remaining in the United States. It is imperative that the integrity of the benefits process not be compromised in the effort to stimulate additional productivity.

Efforts to benchmark and assure quality are at the heart of every production initiative. For example, USCIS is committed to attacking benefit fraud and has created an Office of Fraud Detection and National Security (FDNS) specifically to lead USCIS efforts in this area. FDNS will assist USCIS adjudicators in verifying applicant and petitioner information, and will work cooperatively with ICE to ensure that fraud schemes are identified and referred to ICE for criminal investigation and prosecution. USCIS field officers have been instructed to issue Notices to Appear for removal proceedings in instances where an applicant or beneficiary has attempted to defraud the government.

## CUSTOMER SERVICE

*Question.* In order to improve customer service, CIS is working on improving the ability of beneficiaries to interact with the Department of Homeland Security electronically. USCIS has now expanded electronic filing to support 50 percent of the total volume of benefit applications. When is the next expansion of the online filing of benefit applications planned?

*Answer.* The e-filing system currently includes 8 application form types, which represent approximately 50 percent of the USCIS workload. The e-filing application volume has doubled each year since its inception. The current phase entails enhancing system functionality and capabilities, which will include accepting Premium Processing filings of the Immigrant Petition for Alien Worker (Form I-140) in the third quarter of this fiscal year.

*Question.* Which applications does CIS plan to add next?

*Answer.* USCIS intends to expand e-filing, but has not yet determined which applications will be targeted for the next e-filing phase.

*Question.* What are the current plans for re-designing and re-launching the CIS website?

*Answer.* USCIS is creating a consolidated "Customer Service Portal" to integrate and align all public-facing USCIS websites. The current USCIS web configuration of "core" USCIS.gov content was completed in 1998. While the core content is continually refreshed, its underlying information architecture (IA) has never been refreshed. Moreover, three additional USCIS customer service websites, each adding a valuable new service, were appended onto USCIS.gov. However, their development was not integrated into the core website due to technical limitations at the time.

This new project will enhance the ability to manage the USCIS.gov web content; enforce the DHS branding guidelines; standardize the presentation of all USCIS.gov web content as being part of "One Voice, One Face, Many Channels," and help initiate the development of a comprehensive USCIS-wide web governance.

The development of the USCIS customer service portal will be conducted in phases. The initial phase of the project seeks to enhance USCIS.gov content by developing a comprehensive information architecture (IA) within which all current and anticipated USCIS.gov web content and e-services may be organized. The initial phase includes standing up a refreshed, customer-oriented USCIS.gov in the newly developed environment, with emphasis placed on the requirements of the USCIS Office of Communications. Additional phases will concentrate on the development of the consolidated web portal, and the requirements of other organizations providing content to USCIS.gov and integrating, to the degree possible, content from the three service-oriented websites, InfoPASS, Customer Relationship Interface System (CRIS), and e-Filing into USCIS.gov. As of March 2005, the project has been funded by the USCIS Senior Review Board. A Statement of Work for all phases of the project is currently being drafted, and USCIS anticipates awarding the contract in fiscal year 2005.

*Question.* What is the status of the initiative to begin electronic adjudication of Temporary Protected Status applications?

*Answer.* The electronic adjudication of Temporary Protected Status (TPS) applications began with the re-registration of TPS applicants from Honduras and Nicaragua on November 6, 2004, and continued with applicants from El Salvador on January 5, 2005. The next designated TPS country eligible for electronic adjudication is unknown at this point in time.

## OFFICE OF FRAUD DETECTION AND NATIONAL SECURITY

*Question.* Please provide a detailed update on the establishment and expansion plans for the Office of Fraud Detection and National Security (FDNS).

*Answer.* USCIS Director Eduardo Aguirre created the Office of Fraud Detection and National Security (FDNS) to implement two high priorities that support the USCIS mission:

- Conducting effective background checks on persons seeking immigration benefits, and;
- Detecting and combating immigration benefit fraud.

*Background:* In fiscal year 2004, FDNS developed and implemented a joint anti-fraud strategy and initiative with the Bureau of Immigration and Customs Enforcement (ICE). To support this effort, the FDNS developed the necessary policies, procedures, and organizational structure. This included incorporating the staffs of the Service Center Fraud Detection Units (FDU) with the allocation, deployment, hiring, and training of over 150 new employees at field and headquarters locations throughout the interior United States starting in fiscal year 2004. The present staff of the FDNS is 222 permanent and term appointment employees. Of the new em-

ployees, 110 are field office Immigration Officers located within Districts, Sub-offices, Regional offices, and Headquarters. Within the FDUs and Headquarters, FDNS has 61 Intelligence Research Specialists and 30-term appointment Investigative Assistants. The remaining staff provides administrative and management support to the field officers and are located within the FDUs and Headquarters offices. Utilizing fees generated from the H-1B and L Visa Reform Act of 2004, USCIS plans to fill 160 FDNS positions. These new positions will enable FDNS to make adjustments to current staffing and provide specific levels of support for both the anti-fraud and national security operations.

*Fraud*

The primary objective of the anti-fraud operation is to detect and combat immigration benefit fraud by referring articulated leads to ICE for criminal investigation, and conducting administrative inquiries when ICE rejects a request for investigation. The primary duty of an FDNS Immigration Officer (IO) is to review fraud-based leads referred by adjudicators and other sources. This review consists of performing a variety of system checks, including data mining; conducting field administrative inquiries, which includes interviewing various entities; and supporting criminal investigations conducted by ICE and prosecutions by U.S. Attorneys. It also includes placing individuals in removal proceedings when fraud is verified, collecting and analyzing a variety of intelligence data, and posting look-outs on individuals involved in fraud conspiracies. By removing cases containing elements of fraud from the mainstream adjudications process, adjudicators are able to concentrate their expertise on applicants and petitioners deserving of, and eligible for, the benefits sought. Thus, this anti-fraud effort will improve the quality of adjudications, increase productivity, and reduce cycle times. The 160 new positions will enable FDNS to:

- Place FDNS IOs in the largest districts and each center, where the overwhelming majority of immigration benefit fraud exists, as well as in most of the sub-offices.
- Put a position in the Department of State's Fraud Prevention Program Office in Washington, DC, to enhance inter-departmental fraud detection and planning efforts.

*National Security*

Shortly after the terrorist attack of September 11, 2001, USCIS implemented a policy requiring the completion of background checks on applicants, petitioners, beneficiaries, and other individuals seeking immigration benefits. The National Security Unit has developed, and is implementing, a new policy and process pertaining to the identification, reporting, and resolution of IBIS national security hits. The Interagency Border Information System (IBIS) is the primary tool used to conduct background checks on applicants, petitioners, beneficiaries, and other individuals seeking immigration benefits. Currently, FDNS is conducting a pilot to test the electronic/paperless resolution of background checks and the entry and check of all aliases at the front end of the adjudication process.

*Question.* How are the relationships working with the Department of State and Immigration and Customs Enforcement?

*Answer.* ICE and the Department of State (DOS) have a productive working relationship and coordinate on issues of visa security as well as critical law enforcement issues often involving foreign governments. For example, ICE is working closely with DOS to develop and implement a "diplomatic" strategy to encourage several countries to accept repatriation of their citizens when they are ordered removed from the United States. Additionally, ICE works closely with DOS and other agencies as members of the Human Smuggling and Trafficking Center to synthesize intelligence, law enforcement and other information to bring effective international action against smugglers, traffickers of persons and criminals facilitating terrorists' clandestine travel. In U.S. embassies around the world, a network of ICE attachés, who with DOS, are working with their counterparts in foreign law enforcement agencies combating transnational crimes involving national security, financial, smuggling, illegal arms exports, forced child labor, child pornography, human trafficking, intellectual property rights, commercial and immigration fraud violations. ICE looks forward to continuing and expanding the collaborative relationship with DOS to further safeguard our borders and the American people.

*Question.* Please explain what the FDNS fraud tracking system will be? Who will have access to this system? What are the timeline and major milestones for development of the system?

*Answer.* FTS Requirements:

- The ability to maintain and report on fraud lead and case data in a central repository that is available at a national level to all FDNS staff and authorized external agencies
- The ability to reference benefits application data related to the subject of a case
- The ability to share case and lead data on validated fraud cases with fraud investigators at ICE
- The ability to perform reactive and ad-hoc data searches against benefits claims data
- The ability to perform data mining analysis on benefits claim data
- The ability to define fraud profiles and apply them against incoming application receipts
- The ability to track fraud profile matches and analyze data commonalities
- The ability to generate and report information for management use
- The ability to generate and automatically report G22 statistics for FDNS

**Access.**—FTS is being sized to accommodate up to 500 simultaneous users. This will accommodate the current 222 FDNS field staff, supervisors, managers and support staff located in geographically disparate locations nationwide, but also potential expansion. It will also accommodate information sharing with other agencies such as the FBI, CIA, Department of State, and other DHS and intelligence entities with need to access this information for national security and law enforcement purposes.

#### MILESTONES AND TIMELINES

	Days	Start	End
Discovery Stage .....	7	2/18/05	3/17/05
Design Stage .....	13	2/18/05	3/25/05
Configuration Stage .....	18	3/10/05	4/04/05
Validation Stage .....	15	3/22/05	4/11/05
Deployment Stage .....	4	4/12/05	4/15/05

**Question.** Please provide a detailed plan for the development and rollout of the benefit fraud assessment tool, including timelines and milestones.

**Answer.** U.S. Citizenship and Immigration Service's (CIS) Fraud Detection and National Security (FDNS) Unit will implement a Benefit Fraud Assessment program (BFA). This program was approved in February 2005, and will be implemented in various phases through October 2005. ICE supports FDNS conducting the BFA so that ICE can direct its resources to investigating/prosecuting actual benefit fraud violators.

#### OFFICE OF CITIZENSHIP

**Question.** Please provide the following information regarding the Guide for New Immigrants: which languages will the guide be produced in; how many will be printed in each language in the initial run; how will the guides be distributed electronically and physically; what is the timeline for translating the guide into each of the planned languages; and what is the timeline for producing hard copies in each language.

**Answer.** To ensure that immigrants from a variety of language groups have access to the Guide, the Office of Citizenship will translate the English version of the Guide into ten (10) languages—Spanish, Chinese, Vietnamese, Tagalog, Portuguese, Russian, French, Korean, Haitian Creole, and Arabic.

Hard copies of the Spanish and English versions of the Guide will be available for purchase through the Government Printing Office (GPO), and all other versions will be accessible online. In order to initially market the product, the Office plans to print approximately 250,000 copies of the English guide and 150,000 copies of the Spanish guide.

In addition of the current availability of the English Guide online (additional languages to be posted as translations are completed) the Office is coordinating a national mailing list of community and faith-based organizations, immigration service providers, State and local contacts and adult educators in an effort to disseminate the Guide nationally. USCIS Community Liaison Officers and local field Directors will also receive copies of the Guide for additional local dissemination. GPO order forms will also be included as part of the dissemination effort. In addition to planned dissemination efforts, the Office also plans to implement a comprehensive outreach/public education effort in key communities. These events will be strategically located according to where the centers of the various foreign language communities are. Plans include high-profile events in: Los Angeles for the Spanish version

(May); San Francisco for the Chinese, Tagalog, and Vietnamese versions (May); New York City for the Russian and Korean versions (July); and Detroit/Dearborn for the Arabic version (August).

Spanish translation should be completed in April; Chinese, Tagalog and Vietnamese will be completed in May; Russian, Korean and Arabic will be completed in June; and Portuguese, Haitian Creole and French will be completed in July.

Hard copies of the English and Spanish guides will be available in June. All other translation will be available online late summer. There are currently no plans to print hard copies of the additional languages.

#### STAFFING

*Question.* Please provide a complete FTE staffing plan for fiscal year 2005 and 2006, including but not limited to; location (i.e., District Office, Service Processing Center, etc), position type (i.e., Immigration Information Officer, Adjudicator, etc), and physical location (i.e., Burlington, VT; Dallas, TX; etc).

Answer. Please see tables provided below.

		Current On-Board		
Region	District	Adjudicators (NFC) <sup>1</sup>		All Other USCIS Staff
		Perm	Term	Total
EASTERN	Atlanta	23	28	62
	Baltimore	17	13	39
	Boston	45	11	84
	Buffalo	11	3	38
	Cleveland	11	6	32
	Detroit	20	10	32
	Miami	133	20	146
	Newark	59	13	71
	New Orleans	16	12	43
	New York District	157	52	219
	Philadelphia	18	13	44
	Portland	4	-	16
	San Juan District	9	4	29
	Washington, D.C.	22	9	43
CENTRAL	Chicago	62	42	98
	Dallas	34	22	53
	Denver	14	16	28
	EL Paso	11	9	32
	Helena	4	2	14
	Harlington	10	14	26
	Houston	43	42	56
	Kansas	12	6	23
	Omaha	8	3	15
	San Antonio	14	21	39
WESTERN	St. Paul	10	7	19
	Anchorage	3	1	6
	Hawaii	11	-	28
	Los Angeles	205	109	381
	Phoenix	34	23	56
	Portland	9	6	22
	Seattle	23	14	44
	San Francisco	127	39	138
SERVICE CENTER S	San Diego	27	17	49
	California	162	157	325
	Nebraska	136	153	230
	Texas	131	94	211
	Vermont	216	185	293
NBC	Missouri	-	90	64

## USCIS FTE Staffing Plan

Region	District	Workload Staffing Requirements							
		Avg 04-06 Required Adjudicator Staffing Level (IMAPS) <sup>1</sup>	Supervisory Adjudicators: Imposed Position Counts <sup>2</sup>	Section Managers: Imposed Position Counts <sup>3</sup>	Leadership <sup>4</sup>	Clerks: Imposed Position Counts <sup>5</sup>	FDNS	ASC Managers	
		FY '07 Perm/05-06 Term	FY '07 Perm/05-06 Term	FY '07 Perm/05-06 Term	Authorized	FY '07 Perm/05-06 Term	Authorized	Authorized	
EASTERN	Atlanta	54	28	8	4	2	-	4	18
	Baltimore	33	6	5	1	2	-	1	10
	Boston	66	12	8	2	2	-	5	21
	Buffalo	12	1	2	1	-	-	2	6
	Cleveland	18	7	2	2	-	-	3	7
	Detroit	24	3	3	1	-	-	1	8
	Miami	145	52	20	9	3	-	6	46
	Newark	74	12	10	3	3	-	3	23
	New Orleans	24	6	4	2	-	-	4	8
	New York District	175	106	22	14	6	4	2	52
CENTRAL	Philadelphia	32	8	5	1	-	-	2	10
	Portland	4	2	1	-	-	-	2	2
	San Juan District	6	1	1	1	-	-	2	1
	Washington, D.C.	38	13	5	2	-	-	3	13
	Chicago	74	22	10	5	2	-	4	24
	Dallas	39	12	6	3	2	-	3	12
	Denver	23	4	3	2	-	-	2	8
	El Paso	13	2	2	1	-	-	2	4
	Helena	4	2	-	-	-	-	2	2
	Harlington	9	4	2	1	-	-	1	3
WESTERN	Houston	39	9	5	2	2	-	2	12
	Kansas	16	1	3	1	-	-	2	5
	Omaha	8	1	1	1	-	-	2	3
	San Antonio	22	-	3	-	-	-	1	7
	St. Paul	18	3	3	1	-	-	1	6
	Anchorage	3	1	1	-	-	-	1	1
	Hawaii	11	5	1	1	-	-	2	4
	Los Angeles	195	38	25	5	7	2	5	58
	Phoenix	36	15	6	2	-	-	5	12
	Portland	11	1	2	1	-	-	1	4
SERVICE CENTERS	Seattle	29	3	3	1	-	-	3	9
	San Francisco	114	18	16	4	2	-	5	35
	San Diego	28	4	4	1	-	-	1	9
	California	204	126	26	16	7	4	2	61
NBC	Nebraska	200	81	25	11	7	3	2	60
	Texas	201	97	26	13	7	4	2	60
	Vermont	200	92	25	12	7	3	2	60
	Missouri	121	10	16	2	4	-	2	37

## USCIS FTE Staffing Plan

Region	District	Staffing Distribution <sup>5</sup>							
		IIOs	Analysts	Admin	Records	Customer Service	Computer Info Service	FTE Surplus	Total USCIS Staff
EASTERN	Atlanta	31	4	6	18	1	-	-	195
	Baltimore	12	2	3	8	1	-	-	90
	Boston	28	4	5	17	1	-	-	184
	Buffalo	6	-	-	3	-	-	-	38
	Cleveland	12	-	2	7	-	-	-	67
	Detroit	9	2	2	5	-	-	-	63
	Miami	60	9	14	34	2	1	-	433
	Newark	21	4	6	15	1	1	-	187
	New Orleans	11	-	-	9	-	-	-	78
	New York District	67	13	20	34	4	3	-	570
	Philadelphia	13	2	2	8	1	-	-	93
	Portland	2	-	-	1	-	-	-	17
	San Juan District	3	-	-	2	-	-	-	21
	Washington, D.C.	16	2	3	10	1	-	-	115
CENTRAL	Chicago	26	4	6	12	1	1	-	212
	Dallas	16	3	3	11	1	-	-	121
	Denver	10	1	1	6	-	-	-	67
	EL Paso	6	-	-	4	-	-	-	40
	Helena	3	-	-	1	-	-	-	19
	Harlington	5	-	-	4	-	-	-	34
	Houston	16	3	4	7	1	1	-	111
	Kansas	6	-	-	5	-	-	-	44
	Omaha	3	-	-	2	-	-	-	25
	San Antonio	7	1	1	4	-	-	-	49
WESTERN	St. Paul	8	1	2	5	-	-	-	53
	Anchorage	2	-	-	1	-	-	-	12
	Hawaii	6	-	-	4	-	-	-	40
	Los Angeles	55	11	17	59	4	2	-	519
	Phoenix	20	2	4	12	-	-	-	128
	Portland	5	-	1	3	-	-	-	32
	Seattle	14	1	2	8	-	-	-	81
	San Francisco	38	7	10	28	1	1	-	303
	San Diego	10	2	2	6	1	-	-	75
	California	42	28	37	24	14	19	21	687
SERVICE CENTER S	Nebraska	36	24	31	21	12	16	20	595
	Texas	38	26	33	22	13	17	20	628
	Vermont	37	25	32	21	13	17	20	627
	NBC Missouri	33	11	15	10	6	7	12	302

<sup>1</sup> Based on Sep '04 IMAPS; adjudicator requirements rounded up; excludes contractors.<sup>2</sup> Ratio = 8:1 Supervisory Adjudicator positions include: SDAO and SCAO.<sup>3</sup> Ratio = 4:1, 7:2, 12:3 and 17:4. Positions also include: Section Chief, and ACD.<sup>4</sup> Positions include: DD, DDD, SCD, DSCD, and OIC.<sup>5</sup> Ratio = 3:1 Based on the ratio of current on-board Adjudicator Clerks to Adjudicators. 'Other' designation excluded.<sup>6</sup> Staffing distribution calculations are based on Avg 04-06 Adjudicator staffing requirements.<sup>7</sup> Total On-Board figures include both Permanent and Term designations. Supervisory Adjudicators include all management-level adjudicator positions.

**Question.** Please provide a breakout of attrition rates for each of fiscal years 2003, 2004, and 2005 by type of position and location.

**Answer.** USCIS only has attrition rates for fiscal year 2004. For the major position types, they are:

- Adjudications Officer: 2.3 percent
- Asylum Officer: 6.1 percent
- Asylum/Adjudications Clerk: 2.3 percent
- Immigration Information Officer/Customer Service Representative: 1.2 percent

Data is not available by location.

**Question.** Please provide a chart with the numbers and types of employees that have been trained at Glynco, GA for each of fiscal years 2003, 2004, and 2005.

**Answer:**

Position type	Fiscal year 2004	Fiscal year 2005 (estimate)
Adjudication Officer .....	751	1,098

Position type	Fiscal year 2004	Fiscal year 2005 (estimate)
Asylum Officer .....	116	170
Immigration Information Officer .....	142	207
Other .....	58	85
Total .....	1,067	1,560

Fiscal year 2003 data is not available.

#### CALL CENTERS

*Question.* Please provide a chart with the number of contractors assigned to each call center for fiscal years 2004 and 2005.

*Answer.* USCIS does not determine the number of contractors assigned to each contract call center. Under our contract, the vendor is required to have sufficiently trained staff to meet our performance requirements, and is responsible for determining the placement and size of each of its operations.

*Question.* Please provide a chart for each of fiscal years 2004 and 2005 of the total number of calls received by call center, broken out by type of call.

*Answer.* USCIS has two kinds of call centers. Contract call centers, which provide initial live assistance, and USCIS staffed call centers, which answer questions that cannot be answered by the contract staff.

Our contract call centers operate as one. We do not route calls to our general customer service line based on the nature of the call, but based on agent availability. Calls are routed to the next available agent with the appropriate language skills regardless of location. Thus, staff scheduling, availability and performance affect call routing, not the nature of the call. USCIS, therefore, does not track information by type of call.

The table below shows the volumes and percentage of live assistance calls handled by staff at each of the four (4) contract call centers for fiscal year 2004 and fiscal year 2005 (through mid-March).

	2004		2005 (through mid-March)	
	Volume	Percent	Volume	Percent
Phoenix, Arizona .....	1,269,059	16.0	531,867	17.1
Lawrence, Kansas .....	1,534,164	19.3	636,945	20.4
Corbin, Kentucky .....	4,800,717	60.5	1,809,688	58.1
Arlington, Virginia .....	334,911	4.2	138,153	4.4
Total live assistance calls handled by contract call centers .....	7,938,851	.....	3,116,653	.....
Total calls received to USCIS .....	21,295,256	.....	8,454,022	.....
Percent of total calls that were handled by contract call centers .....	.....	37.3	.....	36.9

#### QUESTIONS SUBMITTED BY SENATOR TED STEVENS

##### ICE—CYBER CRIME CENTER

*Question.* Last year, \$4.2 million was secured in the fiscal year 2005 Homeland Security Appropriations Act to expand the ICE Cyber Crime Center to ICE field offices. Are these funds at risk of being diverted to address the base budget shortfall within ICE this fiscal year?

*Answer.* At this time, it is ICE's intent to execute the entire \$4.2 million in fiscal year 2005 for the purpose for which it was appropriated.

#### IMMIGRATION SERVICES

*Question.* With the split of immigration and enforcement functions precipitated by the creation of the Department of Homeland Security, Alaska's capitol, Juneau, was left with no personnel to provide immigration services. Without immigration services, immigrants are forced to fly to Anchorage to access services. What steps have been taken by the Homeland Security Department to ensure Juneau's need for immigration services will be met?

*Answer.* Since the creation of USCIS, the agency has met the needs of Juneau and other distant communities of Alaska by sending an officer 2 or 3 times each year on periodic circuit rides to conduct benefits interviews, naturalization cere-

monies, and community outreach. USCIS has recently expanded the circuit rides to 4 times a year, even though there were only 400 Naturalization and Adjustment of Status cases in the entire District in the first quarter of this year. The most recent trip was in November 2004, and there are trips to Juneau scheduled for April, August, and October of 2005. The current cycle times are just over 6 months for naturalization, and just under 6 months in Adjustment of Status cases.

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QUESTIONS SUBMITTED BY SENATOR PETE V. DOMENICI

LAND PORT OF ENTRY

*Question.* America has 197 land ports of entry, and it has been almost 20 years since we launched a major effort to upgrade infrastructure at those ports. That last effort occurred in 1986—almost 15 years prior September 11, 2001.

Since September 11, we have placed increasing emphasis on upgrading protective measures for our airports, seaports, and critical infrastructure. It is imperative that we also improve land port security if we are going to be successful in the war on terror. To that end, I intend to introduce a bill which will authorize additional funds for investment in our Nation's border crossings.

Have you considered what kinds of improvements are necessary at our land ports of entry and how much these upgrades might cost?

Answer. CBP has initiated a Construction Master Planning Process that will allow for increased security at the Nation's borders by providing critical facility and infrastructure improvements that are prioritized using a rigorous capital investment planning process.

The planning methodology and resulting allocation of construction projects will optimize available resources to support the expanded methods of CBP operations and comprehensive border enforcement strategy. The construction planning process aligns with the DHS mission and strategy, forecasted future growth, identify and justify required projects and estimate their associated costs. The CBP Construction Master Planning Process was developed in response to the reporting requirements included in House Report 108-774 and House Report 108-541.

*Question.* Based on your experience at CBP, what do you believe are the three top priorities for securing our land ports?

Answer. Since September 11, 2001, CBP has tightened procedures for entry into the United States at all ports of entry, based on three strategic priorities:

- Advance Information and Risk-Targeting.*—CBP has moved forward with programs that provide information regarding cargo and passengers as far in advance of arrival to the United States as possible, and systems to review this information and develop targeted response to high-risk cargo and individuals. These programs and systems include C-TPAT, CSI, advance cargo manifests, Advance Passenger Information Systems, all screened through our National Targeting Center.

- State of the Art Technology.*—CBP is investing in state-of-the-art technology, including non-intrusive radiation detection systems, making additional information systems available to inspectors at the ports of entry, and addition of biometric and other systems to enhance security.

- Training.*—CBP has significantly revised and reprioritized our training for CBP Officers based on operational priorities, beginning with the establishment of anti-terrorism protocols for all ports of entry and developing and implementing anti-terrorism training for all CBP Officers.

*Question.* Specific improvements are needed at the Columbus port of entry in New Mexico, and I understand that the General Services Administration (GSA) has proposed that construction on the Columbus project begin in 2007 or 2008. Do you support GSA's recommendation and will you keep the project on track for construction?

Answer. CBP has requested GSA to modernize and expand the border station in Columbus, NM. The existing facility constructed in 1987, is a full service port of entry with pedestrian, non-commercial and commercial traffic. It is the only 24-hour border crossing point for pedestrians and privately owned vehicles in New Mexico. The facility is in need of significant renovation and expansion to safely process the increased volume of traffic that has occurred since originally constructed.

CBP has requested GSA to include this project at the earliest opportunity. If approved for design in fiscal year 2007, construction should begin in fiscal year 2009.

## QUESTIONS SUBMITTED BY SENATOR RICHARD C. SHELBY

## OPERATION PREDATOR

*Question.* Mr. Secretary, first, let me thank you again this year for ICE's efforts to stop the exploitation of children. I understand that Operation Predator has had many successes and I am glad to hear of its achievements. I believe it is a critical program and I hope it continues to be successful. We should continue to do all within our power to ensure that children around the world are protected from those individuals that would harm them and shamelessly exploit them for simple pleasure and monetary gain.

To that end, I ask that you share with the Committee some of ICE's other efforts to eliminate the abuse and exploitation of children. I know that you have many partners in this effort. I would appreciate you expounding on your opening statement as to what ICE is doing and who you are working with to accomplish these goals.

*Answer.* In addition to Operation Predator, ICE attempts to eliminate the abuse and exploitation of children by enforcing the laws related to Forced Child Labor (FCL). ICE has implemented a proactive outreach schedule targeting an audience comprised of leaders in domestic industry and their employees/agents responsible for foreign purchases and related internal security procedures. Our goal is to educate this community, promote voluntary compliance, and encourage vigilance and reporting of suspected violators. The ICE FCL program staff regularly attends other United States Government agency, foreign government, and non-governmental organization functions related to forced or indentured child labor. In particular, FCL program staff attends and participates in monthly meetings with the National Child Labor Coalition, an organization that exists to serve as a national network for the exchange of information regarding children in an effort to end child labor exploitation by promoting progressive initiatives and legislation; established contacts with various domestic industry trade show representatives and coordinated participation in commodity specific events; and published the Forced Child Labor Advisory and accompanying pamphlet, produced in English and translated into 5 foreign languages for distribution in training and outreach activities. ICE currently has 20 open investigations related to allegations of the importation of products manufactured or produced with forced or indentured child labor. During fiscal year 2005, three new investigations were opened, twelve were closed, and one investigation is in pending status.

During 2004, ICE hosted two international symposiums on FCL and related child exploitation issues as defined in the International Labor Organization (ILO) Convention 182. These symposiums hosted in Singapore and Johannesburg, South Africa, were geared at educating foreign law enforcement partners on U.S. laws, promoting information sharing, and enhancing networking vital to successful investigations, and included presentations and training on: Forced Child Labor, the Protect Act and Operation Predator, Child Pornography, Basic Computer Forensics and Investigative Techniques, and Child Sex Tourism. In addition, at the Johannesburg, South Africa conference, a block of training was conducted by ICE on human smuggling and trafficking particularly with regard to children on the African continent.

In regard to human smuggling and trafficking into the United States, ICE does not keep statistics delineating children versus adults. However, in terms of all human trafficking (men, women, and children), many of these victims are lured from their homes with false promises of well-paying jobs; instead, they are forced or coerced into prostitution, domestic servitude, or other types of forced labor. ICE, with its wide range of authorities, expertise and capabilities attacks human trafficking organizations through the aggressive use of human trafficking, smuggling and money laundering statutes, as well as identification and seizure of criminal proceeds and assets. Each and every allegation received by the ICE FCL program is researched, analyzed, and referred to the appropriate domestic or foreign office for further investigation. ICE's education and outreach process provides guidance to ICE agents in distinguishing the clear differences between human smuggling violations and human trafficking. This process has enabled ICE agents, our State and local law enforcement partners and community groups to better understand and identify trafficking violations and to better care for victims. ICE office of investigations has also conducted extensive outreach and training with our law enforcement partners abroad. Coordinating with the ICE Attachés in numerous countries, ICE works to combat trafficking organizations, in source and transit nations, as well as in the United States.

## ILLEGAL IMMIGRANTS

*Question.* Among each of your roles, is the charge to secure our borders and to control illegal immigration. Estimates of the number of illegal immigrants range greatly. Some say 8 million others say millions more. I believe that we all know that 8 million is an extremely conservative estimate.

*What is your best estimate on the number of illegal aliens currently residing in the country?*

*Answer.* It is estimated that the number of illegal aliens currently residing in the country is most likely between 11–12 million.

*Question.* How many new illegal aliens entered the country last year?

*Answer.* The total for “first time” illegal aliens, in fiscal year 2004, making entry into the United States between the ports of entry is 608,073. These numbers are derived from using the data provided in the Enforce Integrated Database (EID). This data is based on persons identified by biometric data (fingerprints) as first time apprehensions.

*Question.* Is that an increase or a decrease from the previous year?

*Answer.* There was a 20 percent increase in first-time apprehensions/entries into to the United States in fiscal year 2004 compared to fiscal year 2003.

Fiscal year 2004—608,073.

Fiscal year 2003—504,889.

*Question.* If we are so uncertain about the numbers, doesn’t that seem to indicate that we are not doing enough to secure our borders and our homeland?

*Answer.* U.S. Customs and Border Protection is enhancing and planning operations in areas along the borders which pose the greatest threat to national security. With the development and implementation of the Border Patrol’s National Strategy, a measured but aggressive approach is being taken to increase border security. The guidelines and goals outlined in the National Strategy have been translated into the CBP/USBP implementation plan.

## VISA OVERSTAYS

*Question.* Another major problem with our immigration system is the fact that many of those people currently counted as illegals actually entered the country legally, but have overstayed their visas.

*Does the Department have any recent numbers on visa overstays?*

*Answer.* The US-VISIT Program Office conducted an analysis of biometric entry and exit data for the first 9 months of the program (January 5, 2004 to September 30, 2004) and initially, the findings indicate that, for visa holders on whom biometrics are collected at both entry and exit, nearly 90 percent exit the country before their periods of admission expire. In addition, US-VISIT’s preliminary findings show that there is no exit record for less than 1 percent of these visa holders. Due to current limitations in capabilities to capture complete entry and exit data on all visa holders, the small sample size, and the abbreviated period covered by the analysis, US-VISIT is unable to provide more detailed findings.

*Question.* How many temporary visa holders never return to their home country?

*Answer.* Except for the preliminary information mentioned in the previous question, US-VISIT does not yet contain all the technological elements that would readily provide this type of status information. However, according to a report from the Office Immigration Statistics using data from the Nonimmigrant Information System (NIIS), a total of 23.6 million nonimmigrant departures were recorded by NIIS during 2003. Of those, 22.1 million or 94 percent were matched to an arrival and showed valid arrival and departure dates.

The proportion of all admissions matched varies among the broad categories of admission. Short-term visitors had the highest match rate (95 percent), followed by diplomats and other representatives (93 percent), students and temporary workers (88 percent), and expected long-term residents (87 percent). Records missing the category of admission have the highest non-match rate (48 percent) but as a group represented less than one percent.

The report also gives length of visit estimates. Nonimmigrants included in NIIS who departed in 2003, remained in the United States an average, or mean, of 34 days, or just under 5 weeks, per visit. The median length of visit was 8 days, indicating half of all departing nonimmigrants remained in the country for 8 days or less. Over 95 percent of departing nonimmigrants remained for less than 6 months per trip, with approximately 4 percent remaining between 6 months and 1 year, and 1 percent remaining 1 year or more.

*Question.* Can you tell us what percentage of the total illegal population is visa overstays?

**Answer.** It is very difficult to accurately estimate either population. The fiscal year 2006 US-VISIT budget request includes \$24 million for the person-centric view that would begin the transformation of these systems so as to provide timely and accurate visibility to all DOS and DHS officers associated with the visa process regarding those who chronically overstay, or are overstaying for extended periods.

**Question.** Given that these people make up a large percentage of our illegal population, has any consideration been given to strengthening the vetting process? What I mean by that is, if a large percentage of those people obtaining visas are not returning do you think there a breakdown somewhere in the process?

**Answer.** Managing the entry, stay and departure of alien visitors is a major component of controlling our borders and requires collecting information regarding the movement of aliens in, through, and out of the United States. The information in the US-VISIT system is available to Customs and Border Protection (CBP) officers at ports of entry, special agents in Immigration and Customs Enforcement (ICE), adjudications staff at U.S. Citizenship and Immigration Services (CIS) services offices, U.S. consular offices, and other law enforcement agencies. Such information allows these officers to identify and take action against those who violate the law, to locate individual aliens of interest to law enforcement entities, to validate the immigration status of aliens so that only eligible persons receive immigration benefits, and to intercept terrorists and other persons who should not be allowed into the country. Additionally, the United States Government (USG) will be able to use this data to make informed policy and management decisions regarding enforcement prioritization, participation in visa waiver programs, or immigration benefit programs.

Collecting exit information through US-VISIT will strengthen the vetting process by giving officials who issue visas timely, accurate and comprehensive visibility into an applicant's compliance patterns, so that appropriate action can be taken on the visa request. Once all of the elements of the exit/entry system are in place (i.e., at all land, air and sea points of entry, including immigration status information capabilities), we will have the ability to accurately assess and investigate the overstay population.

**Question.** Following-up on that what is your agency doing now and what are you planning to do in the future to ensure that this does not continue to be a problem?

**Answer.** The Homeland Security Act of 2002 gave DHS the responsibility for several significant national security programs/initiatives to track nonimmigrant aliens' compliance with the terms and conditions of their admission to the United States. These programs/initiatives include: the Student and Exchange Visitor Information System (SEVIS), the National Security Entry/Exit Registration System (NSEERS), and the United States Visitor and Immigrant Status Indicator Technology (US-VISIT) program. ICE formed the Compliance Enforcement Unit in June 2003, to investigate criminal and administrative violations identified through these programs. The CEU receives violator data from these programs/initiatives, analyzes the data and sends proactive investigation requests to field offices to locate and remove the violators. The CEU will continue to exploit the benefits of these programs/initiatives.

Additionally, the fiscal year 2005 budget provides for the hiring of additional ICE criminal investigator positions to be assigned to compliance enforcement units across the country. ICE plans to staff these additional positions in field offices to support compliance enforcement investigations generated by the ICE Headquarters CEU. The positions will support compliance enforcement of the US-VISIT, NSEERS, and SEVIS programs based on current enforcement need projections.

**Question.** I know that US-VISIT is slowly being implemented.

What progress has been made to date and what assurances can you give us that we know who is legally entering the United States?

**Answer.** The Department of Homeland Security has met the December 31, 2003, and December 31, 2004, Congressional deadlines to deploy an entry-exit program that strengthens security and facilitates travel for legitimate visitors while protecting their privacy and ensuring the integrity of our immigration system. In conjunction with the Department of State's Biometric Visa Program, we are creating a continuum of security measures that begins before individuals enter the United States and continues through their arrival and departure from the country. US-VISIT also works with commercial carriers to receive notification of passenger lists before passengers arrive in and depart from the United States.

Since its beginning on January 5, 2004, US-VISIT has implemented entry procedures at 115 airports, 14 seaports, and in the secondary inspection areas of the 50 busiest land ports of entry. In September 2004, US-VISIT was expanded from individuals with visas to include processing of visitors traveling to the United States under the Visa Waiver program. US-VISIT processed over 20 million foreign trav-

elers from January 5, 2004, to February 24, 2005, and has prevented 536 criminals and immigration violators, including Federal and State prison escapees, from gaining admission to the United States.

US-VISIT is protecting our visitors by making it virtually impossible for anyone else to claim their identity should their travel documents to be stolen or duplicated. Our fingerprint matching system has an accuracy rate (True Acceptance Rate or TAR) of 99.6 percent for one-to-one verification and a TAR of 96 percent for one-to-many identification. DHS is currently working with National Institute of Standards and Technology and industry leaders on several initiatives to examine mechanisms to increase the level of accuracy.

Later this summer, US-VISIT will conduct tests using automatic identification (Radio Frequency Identification Technology or RFID) at land ports of entry to capture entry/exit information. US-VISIT is on track to deploy entry procedures to the remaining land ports of entry by December 31, 2005, meeting the Data Management Improvement Act (DMIA) mandate.

The work of US-VISIT will extend far past these current efforts. In the Intelligence Reform and Terrorism Prevention Act of 2004, Congress included requirements and actions to be taken by DHS, the Department of State and US-VISIT with the goal of completing a biometric entry and exit data system as expeditiously as possible. US-VISIT is preparing a Strategic Plan that will describe how a single, unified approach to immigration and border management—a U.S. Immigration and Border Management Enterprise—will look and operate in the future. The Plan will include the overarching vision for how the United States Government will manage immigration and its borders, as well as how data, facilities, and information technology will contribute to the Enterprise mission.

*Question.* Conversely, I believe it is important that we know who is leaving the country. Specifically, that ties directly into the visa overstays. If we know that people are leaving we will have a very good accounting of the number of folks that have chosen to stay here illegally. Can you tell us what progress has been made on implementing the exit portion of the program?

*Answer.* In the air and sea environments, DHS is currently collecting biographic arrival and departure data through electronic manifests submitted by the transportation carriers and is using this data to identify alien travelers whose authorized periods of admission have expired and for whom no matching departure information is available. This information is already being shared with U.S. Immigration and Customs Enforcement (ICE). US-VISIT is working collaboratively with the ICE Compliance Enforcement Unit (CEU) to research existing data limitations and develop protocols and procedures to effectively vet these records through additional data sources to develop more complete, accurate and actionable information. Additionally, US-VISIT is conducting pilots to determine the most effective means of capturing exit information.

*Airport and Seaport Pilots.*—US-VISIT is currently piloting three alternative methods of biometric departure confirmation at one seaport (Miami International Cruise line Terminal) and eight airports (Chicago O'Hare; Baltimore Washington International; Denver International; Dallas/Fort Worth International; Newark Liberty International; Luis Munoz International in San Juan, Puerto Rico; San Francisco International; and Detroit Metropolitan Wayne County). DHS anticipates making a decision on the best method(s) to implement shortly, and determining a schedule to expand biometric exit.

*Automated Land Border Entry-Exit.*—Later this spring, US-VISIT will begin testing Radio Frequency Identification (RFID) technology. Using an automatic identifier, RFID technology can detect a visitor at a distance and provide primary inspection with entry information as well as provide a mechanism for an accurate and timely record of exits. By July 31, 2005, testing will begin at the ports of Nogales East and Nogales West in Arizona, Alexandria Bay in New York, and the Pacific Highway and Peace Arch in Washington. Testing will continue through the spring of 2006.

*Question.* When does the Department expect the entire program to be fully operational?

*Answer.* DHS will complete deployment of an initial biometric-based entry and exit program at all U.S. ports of entry by the end of 2005, meeting the requirements established by legislation. It is important to note that the Data Management Improvement Act, which established the majority of initial deadlines, only required the integrating of existing arrival and departure information—it did not require the collection of new information, such as biometrics. The Enhanced Border Security and Visa Entry Reform Act contained a requirement to biometrically compare and authenticate certain travel documents by established dates. DHS, recognizing the importance of biometrics in the process, added the requirement to collect biometric in-

formation, and is establishing additional procedures, beyond those required by statute, to enhance security.

Ultimately, US-VISIT will manage data on foreign nationals covering their interactions with U.S. officials before they enter, when they enter, while they are in the United States, and when they exit. This comprehensive view of immigration and border management will create a virtual border and will improve interactions with foreign nationals. In its strategic plan (required under the Intelligence Reform and Terrorism Prevention Act of 2004) US-VISIT will describe how the U.S. Immigration and Border Management Enterprise will look and operate in the future.

*Question.* Mr. Secretary, can you tell me how many people were detained or deported for overstaying their visas last year? Does ICE take proactive measures towards apprehending overstays?

Answer. Statistics obtained from ICE's administrative booking system, ENFORCE, revealed that in fiscal year 2004, 3,784 nonimmigrants were processed for removal from the United States under the charge of INA 237(a)(1)(C)(i), violation of nonimmigrant status or condition of entry. The INA does not have a specific charge for visa overstays. The above number will include individuals that violated their nonimmigrant status by overstaying their visa, as well as other nonimmigrant violators. These other nonimmigrant violators include: student visa violators, individuals found working without authorization, and nonimmigrants that have violated their status by committing a crime.

The Compliance Enforcement Unit (CEU) receives violator data from NSEERS, US-VISIT, and SEVIS. The CEU analyzes the data and sends proactive investigation requests to field offices to locate and remove the violators. In fiscal year 2004, the CEU sent out over 2,050 visa overstay leads generated by NSEERS, US-VISIT, and SEVIS to ICE SAC offices throughout the country. The CEU will continue to receive and assign overstay leads to ICE SAC offices for investigation.

*Question.* What are the ramifications and penalties for overstaying a visa? There must be a way to keep track of these folks.

Answer. A nonimmigrant that has failed to maintain the status in which he/she was admitted, or fails to comply with the conditions of any such status, to include nonimmigrants that stay beyond their period of admission, is subject to removal from the United States under the charge of INA 237(a)(1)(C)(i), violation of nonimmigrant status or condition of entry.

DHS implemented the US-VISIT program in January 2004, to address a Congressional mandate to implement a nationwide entry-exit tracking system. Once fully implemented, US-VISIT will biometrically document the entry and exit of all foreign visitors to the United States. The CEU works closely with the US-VISIT Program to identify potential visa overstay violators and to conduct the necessary follow up investigations.

#### BORDER SECURITY

*Question.* Every year, I travel to every county in Alabama to hear the issues of my constituents and one of their greatest and most frequent concerns is immigration and more to the point illegal immigration. Every year I feel compelled to tell my constituents that while we are making progress we are nowhere near where we need to be.

What is the Directorate doing to make our borders more secure and to eliminate the influx of illegal aliens?

Answer. ICE is a key player—along with our partners at U.S. Customs and Border Protection (CBP) and U.S. Citizenship and Immigration Services (USCIS)—in the Department's mission to secure the borders and restore integrity to the Nation's immigration system. That is a mission ICE takes very seriously—as the tragic results that can follow when those wishing to do us harm breach the Nation's border security and exploit immigration laws. The key to this effort is prioritization—systematically attacking the most serious threats first. Specifically, ICE has made the apprehension and removal of dangerous criminal aliens and national security threats our top enforcement priority. This is not to suggest that ICE does not fully and consistently enforce the law in other situations but that ICE focuses on addressing the serious threats that individuals with possible terrorist associations, fugitive alien absconders, violent criminal aliens, sexual predators, and others pose to our communities, our families, and our Nation. ICE's objective is to strategically target our resources and authorities on the most dangerous aliens in order to remove them from the streets before they can do harm.

It's a strategy that is getting results. In fiscal year 2004, ICE removed more than 160,200 aliens with more than half of them having prior criminal convictions and 18 fugitive absconder teams across the Nation who apprehended more than 11,000

fugitives last year, ICE created a "Most Wanted" list of the most dangerous criminal aliens, which has been a valuable tool for generating tips and leads. From the original list, nine of the ten were captured within a few weeks, and the tenth was determined to have already left the country. Under ICE's "Operation Predator," which targets pedophiles, child sex tourists, and child pornographers we have arrested more than 5,000 child sex predators who exploit children for pleasure or profit. Approximately 40 percent of the predators arrested under this program have been illegal aliens, and an additional 20 percent have been visitors to the United States who were "out of status," meaning that they had overstayed or otherwise violated the terms of their admission.

Another priority is to dismantle criminal organizations that smuggle and traffic human beings for profit. In fiscal year 2004, ICE arrested more than 1,630 human smugglers. Operation ICE Storm, an initiative launched in 2003 to target violent human smuggling networks in Arizona, has brought charges against more than 300 defendants and resulted in the seizure of more than \$7 million. This unprecedented seizure of alien smuggling proceeds is a direct result of the combination of ICE's immigration and customs authorities (particularly customs expertise in financial crime investigation). Law enforcement authorities in Arizona have credited Operation ICE Storm with a dramatic decrease in alien-related kidnappings and other violent crime in the Phoenix metropolitan area.

ICE's Law Enforcement Support Center (LESC) responded to more than 603,000 immigration status inquiries from Federal, State, and local authorities in fiscal year 2004 and placed more than 15,000 immigration detainees with police agencies nationwide allowing ICE to more efficiently remove aliens from the United States once their jail term has expired. ICE is also fostering innovative new relationships through our 287(g) program, which delegates authority for immigration enforcement to State and local law enforcement. Under the terms of Section 287(g) of the Immigration and Nationality Act (Illegal Immigration Reform and Immigrant Responsibility Act, Sec. 113, April 30, 1996), State and local authorities can request this authority for their jurisdictions. Once this agreement is in place, ICE provides officers with a 5-week training program in immigration issues, and provides supervision and support for State and local officers engaged in immigration enforcement. These authorities are currently in effect in Florida and Alabama.

The examples above are just a sampling of the critical immigration enforcement accomplishments of ICE. By aggressively enforcing our immigration laws and targeting criminals, ICE seeks to deter criminal and terrorist organizations that threaten our way of life. ICE will continue to work with its partners at the Federal, State, and local levels to secure the borders and protect the homeland.

*Question.* How many aliens have been detained and deported in the last year?

Answer. Based on data reported in the Deportable Alien Control System (DACS), as of January 2005, ICE removed/deported 161,090 aliens in fiscal year 2004. This number of final order removals is made up of criminals and non-criminals, detained and non-detained aliens. This does not include any voluntary removals, nor does it include any expedited removals, largely handled by the bureau of Customs and Border Protection. Virtually all of these removals were detained at least 1 day prior to their removal.

Based on data reported in DACS, as of January 2005, 235,449 aliens were detained at some point during fiscal year 2004. Some of these aliens were detained and then released to the community (bond, supervision, recognizance, etc). Others were granted voluntary departure, or transferred to other law enforcement agencies. Finally, some are still in detention for various reasons.

*Question.* If a Mexican citizen looking for work can pay a fee to a coyote to traverse our border, what is to keep a terrorist that would do us harm from doing the same thing?

Answer. ICE recognizes that criminal organizations operating worldwide are responsible for smuggling and trafficking tens of thousands of illegal aliens and thousands of pounds of illegal narcotics into the United States. These organizations generate millions of dollars in illicit profits that are moved through wire services, laundered through front businesses and transported out of the country. By exploiting vulnerabilities in border integrity, criminal organizations, whether they smuggle humans, illegal narcotics, illegal arms, or other contraband, are an unquestionable threat to the security of the United States.

ICE has developed a full range of investigation and enforcement methodologies to confront the problem at every point—in source and transit countries, on the seas, at the Nation's borders and ports, and in the U.S. interior. In U.S. embassies throughout the world, ICE Attaches work with consular officials and with foreign law enforcement to better coordinate investigations, gather intelligence and follow the money trail to seize millions of dollars in profits from these organizations. ICE

is also integrating intelligence and enforcement efforts and is mobilizing other governments and international organizations in the fight against human smuggling and trafficking.

ICE has played a significant role in the newly established Human Smuggling and Trafficking Center (HSTC). The HSTC is a joint initiative between the Department of Homeland Security, the Department of State, the Department of Justice, and members of the national Intelligence Community. The HSTC serves as an intelligence fusion center and information clearing-house, with the goal of converting intelligence into effective action.

#### TEMPORARY WORKER PROGRAM AND BACKLOG ELIMINATION PROGRAM

*Question.* I remain very concerned with the so called Temporary Worker Program that the President has proposed. Last January, we heard about this program and despite the claims to the contrary it seemed a lot like amnesty. The only difference I can see is that the illegals must have jobs in the United States. Beyond that, these people will be given permission to work and stay even if only temporarily, in the United States despite the fact that they are under the law, criminals. I told you last year that I do not believe in rewarding bad behavior and I still feel the same way today. Under this plan, over 8 million people would have an instant status adjustment. I find this particularly troubling considering the severe backlog of people who are following the law and waiting sometimes years to be allowed to come to the United States.

Director, I know you spoke about the efforts to eliminate the backlog in your testimony and I do appreciate the progress made, but there is much more to be done.

What are we going to do to rectify these problems?

*Answer.* The President has stated a Temporary Worker Program (TWP) must be guided by four basic principles: that America must control its borders; that immigration laws should serve the economic needs of our country; that we must not give unfair rewards to illegal immigrants in the citizenship process or disadvantage those who came here lawfully, or hope to do so; and, that new laws should provide incentives for temporary, foreign workers to return permanently to their home countries. In designing such a program, we must remain mindful of these principles—and, in doing so, address the common and important concerns that you point out.

The President is also committed to achieving our backlog elimination goals by the end of fiscal year 2006, which USCIS is on track to achieve. A well designed and managed and funded Temporary Worker Program would not adversely affect our backlog elimination efforts. To ensure this outcome, the TWP program design must be cognizant of a variety of factors, including current benefit authorities, options for cost recovery via fees, eligibility criteria, employer/government partnership opportunities, and application process requirements.

*Question.* I understand that the backlog at different service centers varies, in some cases by months if not years, what is the problem and how do we fix it?

*Answer.* USCIS has recently submitted a report to the Congress on this subject, which speaks to a staffing analysis recently completed that will help guide the distribution of resources to ensure that Service Centers can meet and maintain backlog elimination goals.

*Question.* I am also painfully aware that my abilities to assist my constituents through casework has been greatly hindered since at least September of 2003 when the Alabama Delegation contacted the Secretary regarding staffing at your Atlanta office. To date, my staff has trouble receiving prompt replies to inquiries made in Atlanta. Often we can do little more than provide them the information they already have available to them through your website. What can we do to ensure that congressional inquiries to your service offices are acted on promptly?

*Answer.* USCIS places a high priority on effectively serving its customers. Members of Congress and their staff often contact the agency in order to facilitate the resolution of constituent immigration casework. Many times, it is through a congressional inquiry that a case that has gone off track is identified and resolved. Often these inquiries can help us identify trends where changes in operational practices or policies would be appropriate.

Each USCIS District Office and Service Center has staff dedicated to working with congressional staff. USCIS Congressional Relations has established national standards for responding to congressional inquiries. Telephonic inquiries should be acknowledged or resolved by close of business the next business day, written inquiries should be responded to within 30 days and email inquiries should be responded to within 10 days. Atlanta has been meeting these standards. Still, there are extenuating circumstances where the complete resolution may take longer or where there may be information identified in national security background checks that

cannot be disclosed to congressional offices on individual applicants in order to ensure that ongoing investigations or national security are not compromised.

When we identify a customer service or operational problem specific to a particular field office, a multi-programmatic Field Assessment Team is deployed to undertake a comprehensive assessment of operational effectiveness and responsiveness identifying areas needing improvement, action plans, and specific follow up. In the case of the Atlanta District, such a study was conducted and follow up takes place on a monthly basis. In addition, USCIS has conducted a field study to determine workload and workforce allocation. Through this study, many offices were identified as understaffed and new staff is being hired. As a result of this study, the Atlanta District will be hiring new adjudications staff this year. As new staff come on board and backlogs are reduced, the need for congressional inquiries should likewise diminish. The Atlanta District has informed us that they are current with all congressional inquiries. If there are any outstanding cases within your office we would be happy to work with your staff on resolving those cases.

#### IMPORTED SHRIMP INDUSTRY

*Question.* I know actions are being taken against the imported shrimp industry in response to a dumping determination by the ITC and Dept. of Commerce. Can you tell me what efforts ICE and CBP are being taken in regards to the dumping of shrimp?

Answer. Although the Department of Commerce (DOC) and U.S. International Trade Commission (ITC) share the joint responsibility for antidumping and/or countervailing duty (AD/CVD) orders, the responsibility for the administration and enforcement of these orders belongs to Customs and Border Protection (CBP) and Immigration and Customs Enforcement (ICE).

In July 2004, CBP amended its continuous bond guidelines specifically for agriculture/aquaculture AD/CVD merchandise as a response to the high-risk nature of these imports. A significant number of shipments were found to have circumvented the AD/CVD cases through incorrect country declarations, undervaluation, and insufficient surety bond coverage, thereby preventing CBP to collect the appropriate duties and make the proper distributions.

The first new case affected by these amended guidelines is shrimp from China, Vietnam, Thailand, India, Ecuador and Brazil. CBP has performed a risk-based analysis on the continuous bonds used by importers of this product to identify circumvention schemes and sham companies. To date this effort has been successful, with CBP revoking over 100 continuous bonds for failing to respond to requests for information. CBP has also worked closely with many importers who are willing to comply with the new bond guidelines to appropriately set new bond amounts to cover the potential financial risk associated with the AD/CVD entries. In addition, CBP is also monitoring imports associated with this case on a monthly basis to identify new importers, misuse of more favorable AD/CVD rates, misdescription of goods, all to avoid paying proper AD/CVD duties.

CBP is also deploying field officers located at Southeast Asian attaché offices to determine if the production capabilities exist for this commodity. When problems are discovered, CBP will make the appropriate referral to ICE for further investigation and action.

#### BORDER PATROL VEHICLES

*Question.* As you know, the fiscal year 2005 Homeland Security Appropriations conference report calls for a comprehensive border patrol vehicle fleet management plan by February 8, 2005. Can you please inform the Committee of the status of this report, and specifically the findings with respect to extreme terrain border regions?

Answer. CBP has developed a draft comprehensive plan that was delivered to the Committee on June 28, 2005. Field implementation of the extreme terrain program has begun. The Program consists of four steps: (1) terrain mapping; (2) the evaluation and development of an off-road vehicle fleet; driver training; and sector management orientation. The first step, terrain mapping, involves retrofitting severe and enhanced mobility vehicles with specialized equipment to measure and pinpoint terrain severity using a global positioning system. Agents who have received advanced off-road training operate the vehicles in performing their regular duties, and CBP thus obtains accurate information about terrain severity that will be used to develop the optimal off-road fleet. A total of 10 Border Patrol Sectors were selected for the terrain mapping step in this Program. Mapping started in San Diego Sector in June 2004, and has been expanded to include the El Centro, Yuma, and Tucson

Sectors. The following additional Sectors are scheduled to begin mapping this fiscal year: Marfa, El Paso, El Rio, Laredo, McAllen, and Blaine.

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#### QUESTIONS SUBMITTED BY SENATOR ROBERT C. BYRD

##### VISA WAIVER PROGRAM: FURTHER EXTENSION

*Question.* The Enhanced Border Security and Visa Entry Reform Act of 2002, which President Bush signed into law on May 14, 2002, established October 26, 2004, as the deadline by which the 27 existing "visa waiver" countries must have machine readable passports in order for their citizens to enter the United States without a visa. The Congress passed legislation last year pushing back that deadline until October 26, 2005.

Does the Department believe that additional time is required for these visa waiver countries to come into compliance with the machine readable passport requirements? If so, has authorizing legislation to achieve this goal been introduced?

*Answer.* The Enhanced Border Security and Visa Entry Reform Act provisions are related to machine-readable passports that are tamper-resistant and incorporate biometric and document authentication identifiers that comply with applicable biometric and document identifying standards established by the International Civil Aviation Organization. Last year the Administration requested a 2-year extension of the deadline requiring Visa Waiver Program (VWP) nationals to present biometric passports. Congress provided a 12 month extension to give countries designated to participate in the VWP additional time to implement the required passport changes. Given that, DHS and DOS have continued to work closely with VWP participants to review the progress that has been made toward compliance with the new requirement and deadline. We will be able to report on this progress to Congress shortly, though there are still concerns with the current deadline. I look forward to working with you to determine the best solution to both enhance the security of the VWP and enable facilitation of legitimate travel.

*Question.* Former Secretary Ridge stated in one of his departing interviews that the United States most likely should impose the same requirements regarding biometric identities on U.S. passports. Has the machine readable requirement imposed on foreign visas resulted in negative treatment of U.S. travelers abroad?

*Answer.* The Visa Waiver Permanent Program (Public Law 106-396) imposed a requirement that VWP travelers have machine-readable passports (with the biographic, not biometric, data being available in a standard manner) for VWP entry on or after October 1, 2007, and that participating VWP countries certify that they are issuing machine-readable documents no later than October 1, 2003. Public Law 107-56, the USA PATRIOT Act of 2001 advanced the deadline for use of machine-readable travel documents by VWP applicants from October 1, 2007, to October 1, 2003, but provided for the Secretary of State to waive the requirement until October 2007. In September 2003, the Secretary extended the deadline for individuals to present machine-readable documents to October 26, 2004. The requirement for nationals of VWP countries to present machine-readable passports to enter the United States under the VWP after October 26, 2004, has not resulted in any reported negative treatment of U.S. travelers abroad.

Additionally, U.S. visas now contain biometrics (i.e. two fingerprints and a digital photograph). European Union nations are discussing options for implementing biometric visa programs as well.

##### IMPACT OF BUSH AMNESTY ON BACKLOG REDUCTION/WORKLOAD

*Question.* Your agency's budget request states that, if Congress provides the minimal discretionary funding you are requesting, you are on track to meet the goal of reducing to 6 months the processing backlog for immigration documents.

The President continues to advocate for an amnesty for illegal aliens already resident in this country under the guise of an immigration reform proposal. I am concerned about the impact on your meeting these backlog reduction targets of any immigration proposal. We discussed this issue at last year's hearing, and you responded that any impacts on your agency's goals and operations would depend in large part on what Congress did in response to the President's immigration "reform" proposal. He raised the immigration issue again in his State of the Union address. However, we in the Congress continue to await his "proposal". When will Congress get the President's immigration reform proposal and what impact would his immigration "proposal" have on your backlog reduction proposal?

*Answer.* The President has outlined his vision for a Temporary Worker Program (TWP) and said that it must be guided by four basic principles: that America must

control its borders; that immigration laws should serve the economic needs of our country; that we must not give unfair rewards to illegal immigrants in the citizenship process or disadvantage those who came here lawfully, or hope to do so; and, that new laws should provide incentives for temporary, foreign workers to return permanently to their home countries. The key to processing temporary worker petitions quickly and efficiently is simplicity in the design. A well designed and managed Temporary Worker Program would not adversely affect our backlog elimination efforts. To ensure this outcome, the TWP program design must be cognizant of a variety of factors, including current benefit authorities, options for cost recovery via fees, eligibility criteria, employer/government partnership opportunities, and application process requirements.

*Question.* Rep. Sensenbrenner has promised to attach his immigration bill (H.R. 418) to the Emergency Iraqi War Supplemental. This bill includes many of the provisions in the original House draft of the Intelligence Reform Act.

Unlike some rhetorical Bush Administration amnesty, the specifics of this legislation are known. If the provisions of this bill are included in the Supplemental or some other piece of legislation, what impact would it have on your agency's abilities to meet your backlog reduction goals?

*Answer.* This bill would not impact USCIS' ability to meet backlog elimination goals.

#### CIS LOCAL OMBUDSMAN

*Question.* Section 452 of the Homeland Security Act called for the establishment of at least one CIS ombudsman's office in each state. Has CIS complied with the Act? If not, when does the Department plan to do so?

*Answer.* HSA § 452 establishes the Office of the Citizenship and Immigration Services Ombudsman (CISO), an entity independent of USCIS and reporting directly to the DHS Deputy Secretary. HSA § 452(e)(1)(A) states that the Ombudsman shall have the responsibility and authority "to appoint local ombudsmen and make available at least one (1) such ombudsman for each State."

For fiscal year 2005 the CISO is authorized a total of 24 full-time employees (FTE), and the majority of these employees are planned to be onboard during the third quarter of the fiscal year. For fiscal year 2004 the CISO was authorized a total of eight (8) FTE. The fiscal year 2006 Budget maintains the CISO at the 24 FTE level.

The CISO has established a "Local Ombudsman Pilot Program" which is partially staffed at present but planned to be fully staffed by April 30, 2005. The pilot program is to design and develop a workable local ombudsman office which will have specific operational responsibilities over a defined geographic area. The pilot program will establish personnel certification and training requirements, determine liaison responsibilities and limitations, finalize facilities requirements and provide a controlled model for future local ombudsman office placements. The pilot program will commence upon the arrival to CISO of the new hire personnel to complete the staffing of the pilot local ombudsman office ("Beta Office"). The pilot program is estimated to last for a minimum of 9 months, however that time may expand or contract depending on the results attained. The following is a list of tasks to be accomplished during the pilot program:

- Develop personnel job descriptions based on actual job requirements.
- Conduct a task and skill analysis for each job position to determine the required skills and knowledge for incumbents, as well as to determine individual training requirements for incumbents.
- Design and develop a local ombudsman training and certification program.
- Determine the requisite support equipment necessary for local ombudsman operations.
- Determine the most efficient data transfer arrangement between the Beta Office and the Ombudsman Information Management System (OIMS) to allow for: (1) inquiries and USCIS actions to be received by the Beta Office from OIMS; (2) Beta Office inputs to OIMS; (3) and statistical data and analyses provided in both directions.
- Develop and establish inter-office and intra-office liaison methodologies and procedures, with particular emphasis on: (1) Beta Office to Analysis Branch; (2) Beta Office to Executive Officer staff; (3) Beta Office to OIMS staff; (4) Beta Office to USCIS office(s) in geographic area of responsibility; and (5) Beta Office to individuals/employers as appropriate.
- Develop reporting vehicles for Beta Office operations and productivity.
- Baseline Beta Office operations, duties and tasks under appropriate quality assurance standards.

- Develop and produce procedural manuals to baseline Beta Office operations, duties and tasks.
- Other tasks to be identified throughout the pilot program duration.

#### NATIONAL BORDER SECURITY ASSESSMENT

*Question.* The Heritage Foundation issued a December 13, 2004 report entitled “DHS 2.0: Rethinking the Department of Homeland Security,” which made a number of recommendations. One of them recommended that the Department of Homeland Security “conduct a national assessment of the resources required for effective border security.”

Given the comments by Deputy Secretary Loy and other about the threat facing our borders from a variety of groups, including Al Qaeda, is the Department actively conducting such an assessment and, if not, why not?

*Answer.* Under the goal of Prevention within the United States Department of Homeland Security Strategic Plan, one of the primary objectives is to: “Secure our borders against terrorists, means of terrorism, illegal drugs and other illegal activity. We interdict terrorist activities by targeting unlawful migration of people, cargo, drugs and other contraband, while facilitating legitimate migration and commerce. The Department will enforce border security in an integrated fashion at ports of entry, on the borders, on the seas and before potential threats can reach our borders. Through the continued deployment of the appropriate balance of personnel, equipment and technology we will create “smart borders.” Not only will we create more secure United States borders, but in conjunction with international partners, we will extend our zones of security beyond our physical borders identifying, prioritizing and interdicting threats to our Nation before they arrive. We will develop and provide resources for a cohesive, unified enforcement capability that makes our border security effective, smarter and stronger.”

DHS operating elements all share in this requirement and are conducting assessments within their area(s) of responsibility. For example, the Border Patrol has developed America’s Shield Initiative, which will methodically assess the highest risk illegal border crossing corridors and, taking into account the topography and other natural barriers, allocate an efficient suite of aerial or ground sensors, personnel and equipment, to best secure the areas between the ports of entry. At the ports of entry, CBP is using and developing enhanced targeting systems and personnel to inspect the highest risk cargo, people and conveyances. In addition, radiation portal monitors are being deployed at our ports to screen cargo for potential weapons of mass effect. One of the tools enforcement officers at the border also employ is the United States—Visitor and Immigrant Status Indicator Technology (US-VISIT) program which incorporates biometrics (finger scans) into entry documentation to ensure we are only letting in those visitors with valid visas who have been cleared against terrorist watchlists and data bases holding fingerprints for criminals. Our national drug control strategy and related annual drug budget also contains information on the trans-national drug threat and resources devoted to combating this problem which complements our border security initiatives. These are a few examples of the family of plans, periodic reviews, acquisitions and programs that collectively contain the assessments and resource requirements for national border security. Annually, those requirements work their way through the budget process producing allocations to address the highest priority security concerns.

#### IMMIGRATION ENFORCEMENT

*Question.* Last year, Congress provided \$5 million for a worksite enforcement program. For fiscal year 2006, you are requesting \$18 million for the same purpose. How have you used the fiscal year 2005 funds? Please describe how the requested fiscal year 2006 funds will contribute to immigration enforcement.

*Answer.* ICE will increase its presence at worksites, concentrating on employers in specific industries and geographical areas who intentionally violate the law or who have historically hired large numbers of unauthorized workers. ICE will also coordinate with Citizenship and Immigration Services to improve and expand verification services (Basic Pilot Program) to employers nationwide pursuant to the Basic Pilot Program Extension and Expansion Act of 2003.

#### DETENTION BEDSPACE

*Question.* For the current fiscal year, Congress provided funding to fill 20,660 detention beds—yet the total beds that you are filling each week thus far is averaging 2,000 below the funded total. Why are these beds not being filled? What types or categories of aliens are not being held?

**Answer.** ICE Detention and Removal Operations (DRO) is detaining within its budget.

National security cases and criminal aliens are ICE's priority in immigration enforcement. Daily, ICE is at 100 percent capacity of its available allocated funding for detention bed space, the majority of those detained being criminal aliens. This aggressive enforcement posture is reflected in last year's record 160,284 alien removals, including record 84,400 criminal aliens removed from the United States. ICE conducts case-by-case determinations on who will be processed for removal and who will be detained or released. ICE must also carefully consider the conditions of release and factor in community safety especially with regards to criminal aliens. ICE will continue to aggressively enforce immigration laws against criminal aliens and other aliens who pose security threats to the country and expects to continue to achieve increased removals.

**Question.** Please provide the cost assumptions ICE would use regarding hiring the first year (fiscal year 2006) authorized level in the Intelligence Reform Act (800) for ICE investigators as well as the fiscal year 2007 annualization of those positions. Also, please provide the same information for the costs associated with meeting the first year authorized levels for detention bedspace (8,000).

**Answer.** The fiscal year 2006 Budget includes substantial increases for increased detention and removal activities. The fiscal year 2006 Budget includes \$90 million for detention beds and additional detention and removal officers. This increase will fund 1,920 beds. In addition, the Budget provides \$1.5 billion for detention and removal activities, \$236 million (19 percent increase) over the 2005 enacted level. In addition, it also includes \$39 million for the detention and repatriation costs of the Arizona Border Control Initiative. In addition, 140 new Special Agents will also be hired.

#### INVESTIGATIONS OF ARMS EXPORT CONTROL ACT VIOLATIONS

**Question.** The Department of Justice published revised regulations in the November 15, 2004 Federal Register that suggested that DOJ—not ICE—will have the lead role in investigations regarding illegal arms exports. I understand that in late December, you issued a message which stated, in part, “In recent weeks some media reports have suggested that ICE may be ceding some of its authority to investigate violations of the Arms Export Control Act, and other export laws. I am writing today to inform you that nothing could be further from the truth.”

This seems to be another troubling example of this new Department's willingness to cede authority to other Departments for some of the traditional roles played by its component parts over the years. The Secret Service had to assert its authority as the primary protector of the currency a few years ago and the Department lost some of its lead role in terrorist financing when former Secretary Ridge signed a Memorandum of Understanding with the former Attorney General. Even the Department's central role in coordinating terrorist threat information was lost—via Executive Order—almost before the ink was dry on the President's signature of the bill creating the Department.

Please explain for the subcommittee the specific roles played by DHS—and ICE in particular—and DOJ in arms export investigations.

**Answer.** For over 25 years, U.S. Immigration and Customs Enforcement (ICE), has effectively investigated violations of U.S. export control laws. The export control laws enforced by ICE include the AECA, the EAR (concurrent jurisdiction with the Department of Commerce), the International Emergency Economic Powers Act and the Trading with the Enemy Act. ICE uses its border search authority, certified undercover operations and U.S. money laundering statutes as additional tools to prosecute export violators and to assist in the identification and seizure of criminal proceeds of specified unlawful activities. As a result, ICE has successfully investigated hundreds of significant export violations.

ICE will continue to vigorously pursue criminal violations of the export laws and will work jointly with the FBI in export investigations that have a nexus to FCI.

#### IMPACT OF THE ICE BUDGET SHORTFALL

**Question.** In the fall of 2003, Congress began calling for the Department to respond to the fact that ICE had insufficient resources to perform its numerous immigration and other investigative duties. In both the fiscal year 2004 and 2005 Appropriations Acts, Congress stepped up to the plate and provided Immigration and Customs Enforcement with more funds than requested by the President to deal with the shortfall.

Yet even with the full acknowledgement that ICE does not have sufficient funding, and that the shortfall has hampered its mission and damaged the morale of its

agents, the President has refused to request supplemental funding to make ICE "whole" and to put it on a sound financial footing.

Immigration and Customs Enforcement should be able to move forward, secure in the knowledge that it has the funds necessary to robustly investigate arms smugglers, terrorists, money launderers, child predators, as well as enforce existing immigration laws.

However, ICE has been forced to take dramatic steps—including freezing hiring, stopping training, and limiting travel—for more than a year in order to live within its constrained budget. The hiring freeze and other spending restraints remain in place nearly 6 months into the new fiscal year. And now we are being warned that ICE faces a funding gap of nearly \$300 million this year.

*Question.* Will you end fiscal year 2005 with fewer investigators than you started with at the beginning of Fiscal year 2004? How has that reduction impacted your mission?

*Answer.* The pending reprogramming will give ICE the ability to end fiscal year 2005 with at least the same, if not higher, level than fiscal year 2004. While ICE has been working through significant challenges during the past 2 years, at the same time, ICE has been achieving unparalleled success in its mission areas. During fiscal year 2005, ICE will continue to work through its challenges and accomplish its critical mission.

*Question.* Did you seek a supplemental to address the shortfall?

*Answer.* The proposed reprogramming submitted on March 12, 2005, is sufficient to address the financial requirements of ICE.

#### CONTAINER SECURITY INITIATIVE: EXPANSION AND REGULARIZATION

*Question.* I have long been a supporter of the Container Security Initiative, or CSI. This program stations CBP personnel at participating foreign seaports to target and inspect ocean-going shipping containers prior to their being loaded on U.S.-bound vessels. While it was initially skeptical of the program, and reluctant to support the funds the Congress provided to begin its implementation, I am pleased that this Administration has embraced the CSI.

The Administration seeks a modest increase of only \$5.4 million for the CSI for a total fiscal year 2006 request of almost \$139 million.

During visits to some of these ports, my staff has been impressed with the generally cooperative relationships that have been formed between the CBP personnel and their host country counterparts. As they work together and develop increasing levels of trust, the mutually beneficial aspects of the CSI program to both our country and theirs become apparent. However, the one constant refrain we heard from both CBP and host-country officials was the fact that our people are generally sent over on a temporary basis. They are concerned that once the relationships have matured during the months that the CBP personnel are at a port, they are rotated out and the "trust-building" process must begin again.

Could the effectiveness of the CSI be improved by resolving this temporary duty situation? What are you and the Department doing to ensure that CBP personnel based overseas for CSI implementation are able to stay at a port for a healthy period of time? Are there problems with our State Department representatives that need to be addressed? If so, has this been discussed by Secretary Chertoff with Secretary Rice?

*Answer.* CBP is transitioning CSI temporary personnel to permanent status. This process requires DHS to coordinate with Department of State (DOS) as required by National Security Decision Directive 38 (NSDD-38). DOS negotiates the placement of permanent personnel at foreign duty posts and also negotiates the appropriate level of Privileges and Immunities (P&I) that will be granted by the host government on behalf of all United States Government agencies.

CBP is currently working with DOS to secure the placement of CSI personnel into a permanent status with the appropriate level of P&I. The DOS has placed a high level of priority on assisting CBP with this initiative.

*Question.* Without naming any ports or countries, my staff has also heard that some participating ports are often very reluctant to cooperate with our requests for more robust inspection and screening of containers. If this is indeed the case, has consideration been given to lodging formal complaints with the host government—or even to suspending a specific port's participation in CSI?

*Answer.* There are currently 35 operational CSI ports. The standard operating procedures for these CSI ports are in part governed by a jointly signed Declaration of Principles, in which the host government agrees to pre-screen containers that pose a risk for terrorism.

It is also understood that due to host government sovereignty, the final decision on container examinations is at the discretion of the host government. However, CBP has authority to issue no load order for those who refused inspection.

The CSI program has made significant progress in reaching agreement with host government agencies on what constitutes a high-risk container warranting an examination.

Challenges still exist at one CSI location with regard to common and agreed upon definition/designation of high-risk containers warranting examination(s).

CBP is confident that with the high percentage of CSI locations operating very effectively that continued progress will be made in this one location. CBP has, and continues to consult with State Department (including the U.S. Embassy in this location) to enhance the CSI operation.

CBP has contemplated the alternatives and is receiving full support from all Departments and Agencies in making CSI efficient and effective.

#### IMPACT OF LATE DUTY COLLECTION ON CRAWFISH INDUSTRY

*Question.* As mentioned previously, in the past, U.S. industries like the U.S. crawfish industry have discovered only very late in the year that millions of dollars of antidumping duties for some reason have not been collected in their cases against Chinese imports as required by law. And, because CBP's failure to collect these duties has been discovered late in the year, the non-collection problem in these cases could not be addressed in time to enable the industries to obtain their yearly distribution of funds under the Byrd Amendment. As a consequence, the U.S. crawfish industry, for example, last year failed to receive at least \$54.4 million it otherwise would have received in duties paid the United States Government by Chinese importers.

It is my understanding that CBP's Office of Information Technology (OIT) is fully capable of running an already existing program much earlier in each calendar year, (meaning by the end of March at the latest), which would enable both CBP and U.S. industries to learn, much earlier, if millions of dollars in duties are not being collected by CBP from U.S. importers of foreign, dumped products.

Why can't CBP's Office of information Technology determine by the end of this month if there are cases in which CBP is not collecting duties owed the United States Government and make that information publicly available as early as possible?

*Answer.* CBP has responded to the revenue risk posed by the inability to collect certain AD/CVD duties through several means, one of which is the monitoring the AD/CVD bills and collections on a more regular basis. For the distribution of these funds to take place timely, it is necessary not only to monitor the timely collection of AD/CVD duties but also to ensure our revenue collection system is protected from possible circumvention and corporate solvency schemes designed to enter AD/CVD goods into the U.S. market with the intention of never paying the proper duties at time of liquidation.

On a monthly basis, CBP is performing a risk-based review of outstanding bills for AD/CVD duties. The information has proven effective in identifying high-risk companies for AD/CVD evasion as well as improve the timeliness of our reviews. CBP is also focused on the long-term issue of the company's financial solvency and their ability to pay outstanding AD/CVD bills. The continuous bond guidelines for imports of certain agriculture/aquaculture imports were amended in July 2004, to address just such an issue. Working with the Department of Commerce, we are addressing the AD/CVD issues that pose the greatest risk.

#### OVERTIME PAY WHILE RECEIVING TRAINING

*Question.* I understand that since January 2, 2002, your bureau has not compensated CBP officers who train 6 days a week at the Federal Law Enforcement Training Center. In essence, this means that hundreds of newly trained CBP officers have had to work 6 days a week for up to 12 weeks without any compensation for overtime.

I support your "One face at the Border" initiative and acknowledge that the merging of certain legacy personnel into a new agency requires intensive training. But I think you would concur that this should not come at the expense of basic compensation for these professionals.

How do you plan to correct the current overtime pay problem for these CBP officers who were trained between January 2002 and October 2004?

*Answer.* CBP is also concerned about equitable compensation for the employees who were engaged in training at the Federal Law Enforcement Training Center (FLETC) on a 6-day schedule. As you are aware, the Federal Law Enforcement

Training Center (FLETC) determined that the 6-day schedule was a necessity post-September 11 in order to accommodate the robust training needs of law enforcement personnel.

The Government Employee Training Act prohibits the Federal agencies from compensating employees with overtime while its employees are engaged in training by, in or through government or non-government facilities (5 USC, 41). There are only a very few exceptions to this broad legislative prohibition, and the CBP has used these, where possible, to legally pay our employees so situated.

Chief amongst these exceptions is a different set of regulations that applies to employees covered by the Fair Labor Standards Act (FLSA). Legacy INS inspectors, prior to conversion to the CBP Officer position and COPRA compensation, were covered by FLSA. We were therefore able to retroactively compensate them for the overtime worked on the 6 day during the FLETC training; these retroactive payments were made in December 2004. Because the agency determined that legacy Customs Inspectors were covered by COPRA and therefore exempt from FLSA, payment for the 6 day was not appropriate. The different outcomes regarding payment of overtime resulted from the fact that these groups of employees were covered by different laws at the time that the training occurred.

The National Treasury Employees Union (NTEU) challenged the agency through arbitration concerning this issue, and the agency's legal interpretation was sustained by the arbitrator. This is a complex matter, and there is litigation still pending. It is also important to note that effective October 1, 2004, FLETC returned to a 5-day training week

#### CONTAINER SECURITY

*Question.* In December 2004, the Department unveiled a draft cargo security strategy. This strategy stated that the Department proposes to adopt a "zero-tolerance policy" regarding the arrival of weapons of mass effect at our Nation's borders. I concur that preventing these weapons from entering the United States should be a priority. I always assumed that it was.

The conference report accompanying the fiscal year 2005 Homeland Security Appropriations Act notes that over \$200 million has been spent over the past 3 years on various projects designed to secure cargo containers entering this country. It also calls on the Under Secretary for Border and Transportation Security to—among other things—report to the Congress no later than February 8, 2005 on which DHS entity will have primary responsibility for cargo container security and the setting of shipping industry standards. To date we have not received this report. I assume your agency was closely involved in the drafting of this report.

How closely were you involved in the drafting of the report and can you give us a sense of what it might recommend?

*Answer.* In support of the Department's cargo security strategy proposal to adopt a "zero-tolerance policy" regarding the arrival of weapons of mass effect at our Nation's borders, CBP has deployed various types of radiation detection technology nationwide with the ultimate goal of screening 100 percent of containerized cargo for radiation.

CBP has provided significant input to the draft report on Cargo Container Security, including information regarding the current status of major CBP initiatives addressing cargo security. In providing summary reporting, CBP outlined the desired end state; namely, securing and improving operations at existing ports; expanding operations to new critical international seaports and encouraging global efforts to enhance supply chain security.

*Question.* Do you know when the Congress will receive the report which is now nearly 1 month overdue?

*Answer.* The final report was submitted to the Committee on June 8, 2005.

#### AMERICA'S SHIELD INITIATIVE

*Question.* This Department seems obsessed with selling old wine in new bottles. The visa tracking program known for years as "Entry-Exit" became "US-VISIT". The Office for Domestic Preparedness became the Office for State and Local Government Coordination and Preparedness. Now the Border Patrol's Integrated Surveillance Information System, or ISIS, has been "re-branded" as "America's Shield Initiative"—or ASI. Regardless of the new names for these old programs, the fact remains that our borders need to be protected.

America's Shield Initiative is supposed to implement the Border Patrol National Strategy to strengthen U.S. borders to prevent the entry into the United States of terrorists and terrorist weapons, smugglers and illegal aliens, narcotics and other contraband.

Our borders are under attack. The President's own experts know and are extremely concerned about the threat terrorists pose to our borders. In written testimony before the Senate Intelligence Committee on February 16, Deputy Secretary Loy cited recently received information as the reason for his concern about the threat facing the Mexican border. He called it a "very serious situation."

Given this threat, why does the request include only \$20 million for improved technology on our borders, when CBP staff have estimated the full cost to be \$250–300 million?

Answer. The total funding for the ASI program in fiscal year 2006 is \$51 million, including \$19.8 million for new investments. The fiscal year 2006 request for ASI when coupled with investments for additional Border Patrol Agents, helicopter replacements, enhancements to Border Patrol facilities and tactical infrastructure will provide CBP with a complement of resources that will increase operational control of our Nation's borders.

#### IDENT/IAFIS UPDATE

*Question.* The integration of the fingerprint databases created, maintained, and used by the Department of Homeland Security and the FBI—among other Federal agencies—continues to be a priority concern for the Congress and the members of this Subcommittee. It is critical that we know whether visitors to this country pose a risk to our citizens. As you know, the 9/11 hijackers came into the country on student and tourist visas.

Your Border Patrol agents daily compare the fingerprints of illegal aliens apprehended at our borders against these databases. And it is your inspectors who—at a growing number of ports of entry—compare the fingerprints of visa holders and others wishing to enter this country against these same databases via the US-VISIT system.

That is why I was concerned about the latest Department of Justice Inspector General report on this subject. It stated that of the 118,000 visitors daily entering this country who are subject to US-VISIT, an average of about 22,350 individuals are referred for secondary inspection. According to DHS, by the end of this fiscal year, it expects to directly check only about 800 individuals each day against the full FBI fingerprint database known as the IAFIS Criminal Master File. This is less than 1 percent of the 118,000 daily visitors.

Why are we checking less than 1 percent of visitors to this country against the FBI fingerprint data base?

Answer. This response contains information considered Law Enforcement Sensitive and has been provided to the Committee under separate cover.

*Question.* According to the Justice Inspector General report, the Justice Department will be increasing the FBI's capacity to handle fingerprint checks from 8,000 per day to 20,000 per day by October of this year. Will you be changing your policies so that CBP is fully utilizing that capacity to check the criminal backgrounds of visitors coming into this country?

Answer. DHS and Department of State have found that IDENT achieves their counterterrorism, major law enforcement, and border management objectives in timeframes that meet operational needs for processing at ports of entry. Every day, DHS and DOS run checks on approximately 115,000–120,000 individuals using IDENT. These checks are returned, on average, within 10 seconds at ports of entry for US-VISIT and within 15 minutes for Department of State. Even if IAFIS increases its capacity to 20,000 fingerprint checks per day, it still cannot come close to the number of transactions currently generated by the US-VISIT program. Additionally, IAFIS returns results, on average, at best within 10 minutes, most (such as those transmitted by State) within several hours. Currently, IAFIS does not have the capacity to meet our operational needs for inspecting visitors. However, we are continuing to work with the Department of Justice on finding ways to better integrate IAFIS with our existing systems, such as the successful integration at our Border Patrol stations.

#### COLLECTION OF DUTIES

*Question.* Again, two of the problems that CBP has exhibited with respect to its administration of the Byrd Amendment are (1) Customs' failure to collect duties rightfully owed; and (2) its failure to pay duties already collected in a timely fashion to eligible U.S. companies and their workers.

With respect to the second problem, Customs sometimes holds, in what are called "clearing accounts," duties that are collected over many years—but for which the agency is awaiting final "liquidation instructions" from the Commerce Department

prior to distribution. Often, the Commerce Department claims that such instructions have been sent, but CBP does not know they have been sent or never receives them.

It has been proposed that one solution to this problem would be for CBP to publish the amount of funds held in CBP's clearing accounts, by administrative review period, so that CBP and Commerce can work together to determine which funds should have been liquidated and be available for distribution to eligible U.S. producers. CBP, in certain circumstances, has provided such information to Members of Congress upon request, but has refused to provide such information generally.

*Will you commit to identifying (i.e., publishing) the amount of funds held in clearing accounts by administrative review period?*

**Answer.** The CBP program is designed to generate a bill and collect the appropriate duties following the liquidation of each entry summary. However, importers are provided the opportunity to appeal these decisions, which may involve working with the Departments of Commerce and Justice to ultimately collect these AD/CVD duties. During this time, estimated duties collected on the entry summary are held pending the final liquidation and collection of these duties before they may be disbursed in accordance with the Continued Dumping Subsidy Offset Act.

To ensure transactions are not inadvertently held and made available for disbursement, CBP initiated a plan to review and liquidate entries that may have been inadvertently held in clearing accounts. CBP provided extensive data to Commerce regarding entries by administrative review period that remain unliquidated. Feedback from Commerce on this analysis allowed CBP field offices to finalize 11,000 old AD/CVD entries whose liquidation makes \$12 million eligible for disbursement.

This process also shed light on the cause of the backlog. Over two-thirds of old unliquidated entries (10 years old or more) resulted from a weakness in communicating liquidation instructions from Commerce to CBP. In most instances, CBP is holding old AD/CVD entries with import scenarios not covered by any published Commerce instructions. This is particularly true where instructions are contingent on a complex mix of importer, exporter and/or producer. In fiscal year 2005, CBP is concentrating on the liquidation of all remaining AD/CVD entries entered prior to 1995 that remain suspended.

We are committed to working closely with Commerce to ensure that CBP promptly receives and acts upon all liquidation instructions issued. This will enable CBP to act as promptly as possible to initiate liquidation of the affected entries. This could potentially include a case-by-case comparison of orders.

*Question.* Will you commit similarly to identifying the reasons for the lack of liquidation in cases where liquidation has not occurred for more than 4 years, and provide specific information with respect to those cases showing the amounts that remain unliquidated accompanied by an explanation of CBP's understanding of why the amounts have not been liquidated?

**Answer.** The antidumping and/or countervailing duty (AD/CVD) modules within the Automated Commercial System (ACS) do not provide information by administrative review periods; therefore, CBP cannot track entries this way. Although one module exists to track liquidation instructions by review period—the Department of Commerce (DOC), who has sole responsibility for the AD/CVD modules, has not consistently provided this information.

A liquidation clean-up project was initiated by CBP in response to the Office of Inspector General (OIG) audit on CBP's implementation and management of the Continued Dumping Subsidy Offset Act (CDSOA). The OIG report expressed concern over CBP's unliquidated inventory of 1 million entries and states "clearing up the liquidation backlog should be a priority given the substantial dollars involved." At present, CBP is holding an "official" inventory of 2.2 million suspended AD/CVD entries covering 593 cases. According to the AD/CVD duty module within ACS only 327 of those cases are current, the rest are either revoked (once open, but subsequently closed), terminated (investigated, but never issued), or in some stage of investigation (prior to a decision on issuance). CBP believes that many of these entries can be closed out.

CBP provided extensive data to DOC regarding entries that remain unliquidated despite the fact that their associated AD/CVD cases were either terminated revoked or did not have instructions issued for a specific review period. Feedback from DOC on this analysis allowed CBP field offices to finalize 11,000 old AD/CVD entries whose liquidation makes \$12 million eligible for disbursement pursuant to the Continued Dumping Offset Act of 2000.

The liquidation clean-up project also shed light on the cause of the backlog. Over two-thirds of old unliquidated entries (10 years old or more) resulted from a breakdown in the liquidation instructions from DOC to CBP. In most instances, import specialists are holding old AD/CVD entries with import scenarios not covered by any published DOC instructions. This is particularly true where instructions are contin-

gent on a complex mix of importer, exporter and/or producer. In fiscal year 2005, CBP is concentrating on the liquidation of all remaining AD/CVD entries entered prior to 1995 that remain suspended. Another reason that monies remain in the "clearing accounts" and are unavailable for distribution via CDSOA are the number of protests on bills issued by CBP. Payment of a protested bill is deferred until the protest decision is rendered. Currently many protests of AD/CVD liquidations are suspended pending the final decision by the Federal Appeals Court on International Trade.

#### TRAINING OF CBP INSPECTORS

*Question.* With the creation of the CBP Officer position along with the "One Face at the Border Initiative", how does the CBP plan to make sure that one front-line employee can essentially perform job functions that were previously done by 3 different inspectors? Does DHS plan to create specialty experts for various legacy Customs and INS disciplines, or will every officer have to know every detail of both Customs and INS laws for both the primary and secondary inspections at the border?

*Answer.* We are working towards creating an agency-wide law enforcement and national security culture, establishing unified primary inspections at all United States ports of entry and conducting secondary inspections focused primarily on combating terrorism and the traditional missions inherited by Customs and Border Protection. To do this efficiently and effectively, we have built a comprehensive training plan to guide our efforts.

A very stringent 20-day pre-academy and 73-day basic academy training curriculum has been developed for the new CBP Officer. This training gives them the foundation needed to work in the primary setting upon their return to the port, while also giving them a basic understanding of what occurs in the secondary environments. The ultimate goal is to train the new CBP Officer to not only be equally competent in all of the former, individual areas of responsibility, but also to be better able to meet the expanded mission priority of anti-terrorism. Their Academy training is then followed by a rigorous 2-year on the job training program with approximately 40–45 weeks (depending on environment—air, land or sea) of structured training courses. They are given training in stages in order to absorb it and be afforded time on the job to perform the duties and become proficient.

A comprehensive 37 module cross-training program has been built for those officers who previously performed an Agriculture, Customs or Immigration function at the ports. Training is being given to those officers on a "just in time" basis to perform the job they are being asked to do. Instead, CBP has created a curriculum that builds off of each previous module.

CBP does have several courses which are considered to be advanced training and they would include those that involve analytical capabilities and the counter-terrorism response units in our secondary areas. CBP is currently exploring the possibility of having additional areas and courses designated as specialized training classes.

*Question.* Explain how Customs cargo inspection expertise will not be lost in the transition to the new CBP officer position? Will the new CBP officer be required to thoroughly understand the massive harmonized tariff schedule for goods being imported into the United States as well as being responsible for thousands of pages that comprise the 400 sections of Immigration and Nationality Act, hundreds of pages of INS Title 8 Federal Regulations and the full INS operations inspection manual?

*Answer.* Currently, CBP's Office of Field Operations is developing, in conjunction with the Office of Training and Development, three separate Cargo cross-training modules for the air, land and sea environments. The primary recipients of this training will be the new CBP Officers and those legacy Immigration Officers new to the cargo environment. The training consists of both classroom instruction on cargo processing, and on-the-job cargo training under the supervision of an experienced CBP Officer. The training consists of reviewing bills of lading, processing all types of entries and conducting cargo examinations. Officers will receive this training on a "just in time" basis as they are assigned to cargo primary.

The expertise on classification using the harmonized schedule still resides with the Import Specialists. CBP Officers are introduced to the harmonized schedule in some of our Customs Secondary training as well as the cargo courses described above. We teach a basic understanding of the tariff, how to locate items, and how to do a basic classification/duty calculation. Final classification and duty calculations are done by the Import Specialist.

It is expected that our training effort for the CBP Officer and CBP Agriculture Specialist will be conducted over the course of many years. CBP policy is that no

officer may perform a function or a part of an assignment without having completed the appropriate training module, systems training and on the job training that are associated with those duties.

*Question.* The Department's "One Face at the Border Initiative" merged over 18,000 inspectors from the Customs Service, Immigration and Naturalization Service (INS), and the Animal Plant Health Inspection Service (APHIS), into one front line inspector position. As you know, current legacy Customs, legacy INS and the new CBP officers carry weapons and have arrest authority but are NOT considered Federal law enforcement officers. With the demands of the Federal law enforcement officer having evolved over the last decade, do you not believe that including Federal personnel such as Customs and Border Protection Officers, who not only protect our border from illegal drugs and facilitate lawful trade, but must now defend against weapons of mass destruction and terrorism and the risks that come with these added job responsibilities, deserve the recognition and benefits that go with Federal Law Enforcement Officer (LEO) status?

*Answer.* Customs and Border Protection (CBP) Officers are, in many important respects, law enforcement officers, because they have the responsibility for enforcing laws, making arrests, and performing a critical enforcement and security mission. However, the position does not meet the current statutory definition for coverage under the special retirement provisions, which requires the primary duties to be either investigations of crimes or the apprehension and detention of criminals or individuals suspected of criminal activity.

*Question.* The final personnel regulations greatly reduce the circumstances where collective bargaining will occur for CBP employees. Can you please tell the committee why the regulations prohibit collective bargaining over basic conditions of work, such as employees' rotation between different shifts or posts of duty, or scheduling of days off, including even post-implementation expedited bargaining? It appears the current procedures for bargaining over basic workplace matters such as scheduling have not hampered the agency's homeland security missions in any way.

*Answer.* The successful assignment and deployment of the right employees and technology at precisely the right time is critical to the accomplishment of CBP's primary mission of preventing terrorists and implements of terror from entering the United States through and between our ports of entry. As a result, CBP must be able to assign and deploy employees, and to introduce the latest security technologies without delay. To assist in the facilitation of this requirement, the final DHS regulations provide CBP the flexibility to meet operational needs in these areas without subjecting such managerial decision to protracted negotiations and third party review by individuals or organizations who may not have a full understanding of the complexities of CBP's anti-terrorism mission and operational requirements.

However, in order to balance these operational requirements with the interests of employees, the final regulations do provide an important mechanism for CBP to consult with employee representatives regarding the exercise of these flexibilities. Specifically, CBP will continue to inform labor organizations of its policies and procedures in these areas, to meet and discuss their views, concerns and recommendations with regard to the procedures by which these management flexibilities are exercised, and to attempt to reach agreement on such procedures where possible. Furthermore, where CBP institutes significant changes during the life of a collective bargaining agreement affecting the working conditions of employees, the final regulations provide for negotiations with labor organizations in those cases where the change is foreseeable, substantial and significant in terms of impact and duration on the whole or significant portion of the bargaining unit.

This new framework for interacting with its labor organizations will better support and facilitate the accomplishment of CBP's critical national security mission, while providing a viable and streamlined avenue for the expression and consideration of employee interests and concerns.

#### BORDER PATROL—APPREHENSIONS

*Question.* On average for the current fiscal year, how many illegal aliens is the Border Patrol apprehending each week? Of those, how many are considered to be criminal aliens or who require mandatory detention bedspace? Of the non-criminal/non-mandatory aliens, what is the average length of their stay in the United States in Border Patrol custody prior to being removed/expelled?

*Answer.* The Border Patrol has apprehended 457,900 illegal aliens to date in fiscal year 2005 thru March 11, 2005, approximately 19,908 per week.

Of the total apprehensions to date in fiscal year 2005, 6,171 were determined to be criminal aliens (which equates to about 268 per week). The number of mandatory

detention varies widely. Often the determining factor whether aliens are detained or released on their own recognizance depends on available bed space. The Border Patrol would like to detain all criminal aliens and non-Mexican apprehensions, but currently this is not feasible. The Border Patrol does not detain any aliens beyond 72 hours. Most detainees are turned over to Immigration and Customs Enforcement/Detention and Removal Office (ICE/DRO) before 72 hours. ICE/DRO has advised us that aliens detained for Expedited Removal are routinely held for 30+ days. Criminal aliens and those required deportation hearings are held from 75–100 days.

#### BORDER PATROL—STATIONING OF AGENTS

*Question.* On average, how long does it take to identify, hire, perform a background/suitability check and train a new Border Patrol agent prior to their being posted on the border?

*Answer.* Advance recruitment for entry-level Border Patrol agents is done on a regular basis in order to have a nationwide standing inventory of eligible candidates who already have passed the written and oral exams, completed pre-appointment requirements (including background investigation, medical screenings, etc.), and are ready for final selection. It generally takes 6 to 8 months following tentative selection for a candidate to be added to the hiring queue for job placement. A candidate's position in the hiring queue is based on the written test score plus any applicable veterans preference points.

When the Office of Border Patrol (OBP) identifies specific positions and locations to be filled, offers are extended to candidates in the hiring queue, their starting dates are established, and their training is scheduled. This process generally takes 2 to 4 weeks. Within a few days of their hire, the trainees are detailed to the Border Patrol Academy in Artesia, New Mexico for 19 weeks of basic training. Upon completion of basic training, the agents are returned to their home duty stations as certified, credentialed and armed agents. Formal post-Academy training continues on the job through the remainder of the first year.

*Question.* How many Border patrol agents are currently stationed on the Southwest and Northern Borders? How many agents were stationed on each border on September 11, 2001? Prior to 9/11, what was the average placement of BP agents per mile on the Southwest and Northern Borders? What are those numbers today?

*Answer.* There are currently 10,525 Border patrol agents stationed on the Southern and Northern borders with 9,501 on the Southern border and 1,024 on the Northern border. There were 9,459 Border patrol agents on the border on September 11, 2001, with 9,124 on the Southern border and 335 on the Northern border.

The number of agents on duty per mile varies widely based on risk assessments, traffic patterns, deployed technology in an area and staffing and personnel changes. For example, the evening and night shifts typically have a higher staffing level than the day shift since most illegal intrusion attempts occur during the hours of darkness. As a result of these variables there is no standard average for agents on the border at any given moment.

#### BORDER PATROL

*Question.* Please provide the cost assumptions CBP would use regarding hiring the first year (fiscal year 2006) authorized level in the Intelligence Reform Act (2,000) for Border Patrol agents as well as the fiscal year 2007 annualization of those positions.

*Answer.* The Intelligence Reform Act presents an ambitious and aggressive goal of doubling the size of the Border Patrol Agent cadre over 5 years. For fiscal year 2006, the Act authorizes an increase of almost 20 percent to the number of Agents now on-board. There are practical limitations to the number of Agents that the Border Patrol can efficiently and effectively absorb in a year. These limitations are the result of the existing Border Patrol infrastructure (including training facilities, Border Patrol stations, support personnel, communication systems and vehicle and equipment repair and maintenance facilities) and the numbers of agents that can be brought on annually without undermining the organizational cohesiveness needed for a law enforcement organization like the Border Patrol. Significant investments in the Border Patrol infrastructure are required as a prerequisite to, or at least concomitant with, the increase in the Agent cadre authorized by the Act.

Assuming that the Border Patrol infrastructure receives corresponding budgetary increases, a \$697.33 million would be required for fiscal year 2006 and \$447.41 million will be required in fiscal year 2007. This includes to costs to effectively hire, train, equip and train each new border patrol agent. In addition, it includes costs for support personnel, infrastructure, relocations, and the IT support necessary to support such an increase.

## WAR ON DRUGS—HISTORICAL

*Question.* During the 1980s, there was a major focus on the “War on Drugs” on the Southwest Border. Additional resources were provided to the Border Patrol and then-Customs Service to engage in this fight. Please provide the total number of Border Patrol agents and Customs Service personnel (per year 1980–1990) as well as the number of those personnel in each agency who were dedicated to the Southwest Border.

*Answer.* Shown below is a chart reflecting the number of Border Patrol agents and the number of those agents assigned to the southwest border.

## BORDER PATROL AGENTS

	Fiscal year ending	Nationwide
1980 .....		2,329
1981 .....		2,240
1982 .....		2,227
1983 .....		2,339
1984 .....		2,333
1985 .....		3,023
1986 .....		3,238
1987 .....		3,180
1988 .....		4,074
1989 .....		3,857
1990 .....		3,778

CBP does not have access to personnel data for the 1980–1990 timeframe because the former U.S. Customs Service converted to the United States Department of Agriculture’s Personnel System in 1992.

## QUESTIONS SUBMITTED BY SENATOR DANIEL K. INOUYE

## IMMIGRATION OFFICERS IN LOCAL USCIS OFFICES

*Question.* Being able to talk to knowledgeable immigration officers in local USCIS offices is an important customer service, especially for elderly or illiterate USCIS customers. Although InfoPass provides a free, easy and convenient alternative to waiting in line, InfoPass has caused confusion for a number of Hawaii customers who were turned away at the local USCIS office because they did not know how to use InfoPass. The InfoPass program assumes that all immigrants are literate, have access to a computer, and are able to type on a computer keyboard. How is USCIS addressing this problem to enable access for elderly or illiterate customers with limited computer access and limited ability to use the Internet?

*Answer.* USCIS encourages customers who need information about citizenship and immigration benefits and services to begin with our website, or call the toll-free customer service number. That is because many times they can get the information or assistance they need without having to make a trip to one of our offices.

InfoPass is designed to let customers who do need in-person service make an appointment to reduce the time they may otherwise have to wait to be served once they arrive. USCIS prioritizes customers with appointments to try to ensure that they do not have to wait for service.

However, we recognize that not all customers have access to the Internet. We do continue to offer very basic services, such as forms and standard materials, to customers who do not have an appointment. If it is determined that a customer needs a service that we provide by appointment, we will look to see if one is available that day. If not, and the customer indicates they simply do not have the Internet access to be able to make an appointment, we will help them make their appointment for another day.

## LIFE ACT

*Question.* I am aware that the Legal Immigration Family Equity Act (LIFE Act) was enacted into law in 2001 to reduce the separation of immediate family members of U.S. citizens who are waiting abroad for an immigrant visa. The CIS Service Centers were taking approximately 8–12 months to process immediate relative (form I-130) visa petitions. The LIFE Act created a new K nonimmigrant category that allows a spouse or child of a U.S. citizen to enter as a nonimmigrant on a K-3/K-

4 visa to reunite with her family, and then apply for lawful permanent residency while in the United States.

A U.S. citizen can file a K (form I-129F) visa petition for a spouse or child with the National Benefits Center once he files an immediate relative (form I-130) visa petition and receives a notice of receipt from a Service Center. In most cases, the U.S. citizen petitioner files both the I-130 and I-129F, assuming that the I-129F will be processed faster, due to the USCIS' announced policy to implement the LIFE Act. However, petitioners are finding that the National Benefits Center is slow to adjudicate K visa petitions and is taking approximately 7 months. Currently, three of the four Service Centers are processing immediate relative (form I-130) visa petitions faster than the National Benefits Center is taking to process the I-129F visa petitions (California Service Center=60 days; Vermont Service Center=3 months; Texas Service Center=6 months).

The slowness of K-3 processing suggests that the K-3 program is not working as it was intended, which is to expeditiously reunite U.S. citizens with their spouses and minor children. Furthermore, U.S. citizens submitting K visa petitions waste valuable time and money (\$165 for each petition) when the program fails to provide them with the service and benefits that were intended by Congress. What steps are being taken to effectively implement the K visa program?

**Answer.** USCIS recently made a processing decision that caused the situation that we are now facing with Immediate Relative visa petitions and the processing of spousal nonimmigrant visa petitions.

In reviewing our relative visa petition process, USCIS decided that the Service Centers should focus their efforts on relative visa petitions submitted by U.S. Citizens. As a result of these efforts, the Service Centers have done an outstanding job and have decreased processing times for this type of relative visa petitions dramatically.

At the same time, the National Benefits Center (NBC), which processes the K-3 visa petitions, has continued to process K-3 nonimmigrant spousal cases as quickly as resources will allow. The NBC is currently in the process of acquiring more adjudicative staff to focus on this workload. In the short term, NBC will realign existing staff, including utilization of overtime funds, to reduce the pending workload and achieve currency.

Lastly, it has come to the attention of USCIS that if an applicant has both an approved I-130 petition and an approved K-3 petition at the same time, some local State Department Consulate offices make the decision to give the I-130 petition more weight than the K-3 petition. This decision has an impact on the Affidavit of Support and Medical requirements the petitioner must meet before State will issue an immediate relative visa associated with the I-130. USCIS will work with the Department of State to review this situation and identify a remedy to ensure that both types of visa categories are processed effectively.

#### F2B PREFERENCE VISA PETITION

**Question.** When a petitioner, who originally filed an F2B preference visa petition, becomes a naturalized U.S. citizen, his petition is automatically given F1 status. For those who file petitions for relatives in the Philippines, they are penalized by becoming citizens because their beneficiaries' waiting period is extended by several years.

Section 6 of the Child Status Protection Act allows a petitioner to opt out of converting to F1 status. The bill was enacted into law several years ago, but those individuals who applied to opt out are still waiting for the Attorney General to implement Section 6. The National Visa Center has informed petitioners that there is no timeframe for when this review will be completed. Can you please comment as to when we expect this issue to be resolved?

**Answer.** USCIS is in the process of writing a regulation to codify the Act. We hope it will be published by this summer. In the interim, USCIS has issued a policy memo to provide guidance on adjudicating requests tendered pursuant to Section 6 of the CSPA.

#### 1-800 CUSTOMER SERVICE NUMBERS

**Question.** I have heard from number of comments by USCIS customers that when they dialed the 1-800 customer service numbers, they received misinformation that led to sometimes fatal errors in their immigration application, because the customer service person is reading a script but is otherwise inexperienced in immigration procedures. Please comment on this customer service problem.

**Answer.** All contract customer service representatives must take a USCIS approved course, and pass a USCIS approved exam, before they can answer phone calls. The course and exam are designed to ensure that representatives have an un-

derstanding of the terms and language of immigration, and can find the appropriate materials to convey information or offer services to a caller, before they assist customers.

USCIS' commitment to the accuracy and quality of the assistance we offer is reflected in the fact that we require contractors to monitor each representative randomly twice a day to measure their performance against a set of customer service standards. We also have an independent company monitor calls against those standards. USCIS also uses a secret shopper program to test and evaluate performance against a set of future benchmarks for where we want to be in terms of service provision, and each month conduct a random phone survey of callers to get feedback about their experience.

However, as with any verbal interchange we recognize that customers may not recall in its entirety a precise explanation or conversation, may misunderstand an explanation, or that, for all our controls, a representative may not convey the correct or complete answer. We also understand that customers searching for information about citizenship and immigration benefits, which can lead to life changing events, and work to improve our process to ensure that we are giving them all the options and information. One of USCIS' goals is to give each customer more control over the process, and to give them broader direct access to the scripts and other materials which we have available. Thus, we plan to put all of the scripts that we use to answer customer questions on our website so that customers can do their own research, and can print the information to be able to review it rather than just hearing it explained to them. In fiscal year 2005, USCIS plans to release additional standardized fact sheets and brochures, again to give customers direct access and something they can take with them. We plan to make this information available on our website, and in addition will make them available at our local offices, by phone, and through community partners.

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QUESTIONS SUBMITTED BY SENATOR PATRICK J. LEAHY

PORTS OF ENTRY IN VERMONT

*Question.* I understand there are a number of ports of entry in Vermont that will be overhauled in the next 5 years. What is the current schedule for construction at the each of the major ports in Vermont? What, if any, requests has DHS made to GSA for planning or construction projects in Vermont? Of all the border crossings nationwide, what is the typical length of highway before the actual border that is deemed part of the port? How far along the highway do the longest 5 extend into the United States?

*Answer.* CBP has requested GSA to consider the Ports of Entry at Derby Line (I-91), Richford, and Norton, Vermont for construction in fiscal year 2007. In addition, CBP has requested GSA to begin design in fiscal year 2007 for Richford (Route 139) and Beebe Plain, Vermont with construction to follow in fiscal year 2009.

In regards to the typical distance between the land ports of entry (LPOE) and the international boundary, there are several key factors carefully considered to ensure the safe passage of traffic and the trade while maintaining safety for CBP Officers and the public.

Key factors used to determine the LPOE location relative to the international border are:

- Line of Sight.*—An adequate line of sight (direction, slope, elevation, and obstacles) must be maintained between operational functions at the LPOE. The distance between the LPOE and the international border should be minimized to ensure that activity in the area is effectively observable.
- Alignment of Vehicles.*—The alignment of passenger vehicles and commercial trucks preparing to enter through Radiation Portal Monitors (RPM) and License Plate Readers (LPR) on the way to the primary inspection booth is critical. The distance required for safe vehicular alignment leading up to the LPR/RPM is 40 feet for passenger vehicles and 90 feet for commercial trucks.
- Obstacles.*—There should be no obstacles (buildings, vegetation) located between the LPOE and the international border that would impede the operational effectiveness of the port or degrade safety and security for the CBP Officers and traveling public.

The vast majority of our LPOEs boundaries begin within 100 feet or less of the international border. We do have several locations where the distance is greater as a result of environmental wetlands or other considerations that precluded construction closer to the border. At one location in Minnesota we are planning to be approximately one-half mile from the border but will address security requirements

through the use of video monitoring systems. It is standard CBP policy to maintain a clear line of sight between the operations within the LPOE and the international border to ensure that our officers monitor all traffic entering and departing the United States.

#### BORDER PATROL CHECKPOINTS

*Question.* I have received many complaints and concerns from my constituents about the checkpoint that has been established on Interstate 91 in Vermont. One of my constituents, a naturalized citizen who lives in Vermont and works in New Hampshire, has been stopped repeatedly and questioned about his legal status. Other constituents have expressed concern that racial profiling is occurring at the checkpoint. (A) Is there anything you would be willing to do to prevent naturalized citizens from being stopped repeatedly at this checkpoint, such as offering a frequent traveler card? (B) What measures do your officers take to avoid racial profiling?

*Answer.* Border Patrol traffic checkpoints are operated in accordance with the Constitution of the United States; governing judicial rulings; and the Immigration and Nationality Act, Section 287(a) (8 U.S.C. Section 1357). The principal court case that affirmed Border Patrol authority to conduct traffic checkpoints was *U.S. v. Martinez-Fuerte*, 428 U.S. 543, 556 (1976).<sup>1</sup>

Border Patrol traffic checkpoints, such as the proposed permanent facility on Interstate 91, are a critical component of CBP's multilayered border security strategy. The Border Patrol maintains over 50 such traffic checkpoints nationwide. Traffic checkpoints have been established to restrict the criminal elements' ability to use our highway system to further their entry into the United States. In addition, enforcement operations around the checkpoints target those attempting to avoid inspection by circumventing the checkpoints themselves, further enhancing homeland security. CBP has had discussions regarding the integration frequent traveler technology like NEXUS and PALS into the design of the permanent Interstate 91 checkpoint to ensure that regular highway users are impacted to the minimum extent possible.

The Border Patrol does not condone racial profiling, in fact during basic training Agents are instructed on how to perform their duties without profiling certain classes of people. Any and all allegations of racial profiling are taken seriously and are reported to the Office of Inspector General for investigation.

#### LAW ENFORCEMENT SUPPORT CENTER

*Question.* In your testimony, you mention that the Law Enforcement Support Center's workload increased by 12 percent last year. A number of the employees who are making this increase in productivity possible are temporary employees who have worked for the LESC for up to 4 years, with the expectation they would have the opportunity to become permanent employees. What are your plans to convert these temporary employees to permanent positions?

*Answer.* Law Enforcement Technicians (LETs) serving under term appointments have contributed significantly to the overall success of the ICE Law Enforcement Support Center (LESC). ICE recognizes that the workload of the LESC is a permanent one and shares the view that the staff should be permanent as well. It has been the practice of the LESC to convert term appointments to career appointments as permanent vacancies become available. It has also been the practice of the LESC to regularly extend term appointments up to their maximum duration. However, LESC term LETs are serving under term appointments that have a maximum duration of 4 years under Federal personnel rules and cannot be further extended. The majority of LETs serving under term appointments will not reach their 4-year limit until the spring and summer of calendar year 2006. Only one will reach the 4-year limit in calendar year 2005. The remainder will not reach their 4-year limit until calendar year 2007. As term appointments approach their expiration dates, ICE will explore all available options consistent with Federal personnel rules, budgetary considerations and good management to retain these valuable employees.

#### DEBT MANAGEMENT CENTER

*Question.* The ICE Debt Management Center is an integral part of the financial stability of the bureau. Responsible for collecting debts owed to the agency, the center is an important part of balancing the books at ICE. Has the bureau wide hiring

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<sup>1</sup>Additional case law references: *U.S. v. Gordo-Marin*, 497 F.Supp. 432 (S.D Fla. 1980), and *U.S. v. Maxwell*, 565 F.2d 596 (9th Cir. 1977).

freeze affected the ability of this debt management center and all other financial offices perform their duties? Have you considered providing some flexibility from the hiring freeze for offices with financial responsibilities? As these offices loose individuals from normal attrition, it seems ironic that the offices with responsibilities to correct the financial situation

**Answer.** As with all of ICE Financial Management operations, the Debt Management Center is committed to fully addressing all of its financial management responsibilities in a timely manner. If approved by Congress, the ICE reprogramming proposal will provide additional support to the Debt Management Center (DMC), and the DMC, along with ICE's Office of Financial Management is closely monitoring ongoing operations to ensure that essential and critical financial management requirements are completed in a timely manner.

The ICE OFM has gone through a re-engineering process, finalized in December 2004. The re-engineering format allows the OFM to address audit and financial statement activities (abnormal balances, suspense, cash reconciliation, trading partners, reconciliation of unliquidated obligations, and analysis) as well as specific financial transactional activities for our customer base (Debt Management Center, Dallas Finance Center, financial system support of FFMS and Travel services).

#### LEGAL ORIENTATION PROGRAMS

**Question.** I have supported and helped to obtain funding for Legal Orientation Programs for immigration detainees, with the view that the immigration system works better for all parties when detained aliens are informed as to whether they have a legitimate legal case to stay in the United States. Congress appropriated \$1 million for orientation proceedings in fiscal year 2003, but DHS has still not transferred that money to the Executive Office for Immigration Review so the proceedings can take place. Can you tell me when that money will be transferred, and why it has taken so long?

**Answer.** ICE has provided \$3 million to the Executive Office of Immigration Review (EOIR) for the Legal Orientation Program covering services in fiscal year 2003 through fiscal year 2005. The funding was provided in increments of \$1million at the following times:

- \$1 million to EOIR in late July 2002 (fiscal year 2002).
- \$1 million to EOIR in February 2004 (fiscal year 2004).
- \$1 million to EOIR in February 2005 (fiscal year 2005).

As indicated above, the first \$1 million was issued very late in fiscal year 2002. EOIR used this fiscal year 2002 funding to award a contract for legal orientation program services that were provided throughout fiscal year 2003. EOIR continued to provide legal orientation services based on funding provided in February 2004, and currently provides legal orientation program services with an additional \$1 million provided in February 2005. There have been no gaps in providing legal orientation program services because of lack of funding.

#### CITIZENSHIP AND IMMIGRATION SERVICES FUNDING

**Question.** The President's budget proposes a 50 percent cut in the amount of directly appropriated funds for the Bureau of Citizenship and Immigration Services (CIS), from \$160 million to \$80 million. Congress has already substantially cut the direct appropriations you receive. At the same time, the President has proposed a guest worker program that would significantly increase the CIS workload. (A) Why is the President proposing a 50 percent cut in an agency whose workload he wants to increase dramatically? (B) Are you at all concerned that a system of immigration services that is supported almost entirely by user fees—including the expansion of "premium processing" fees paid to ensure faster processing—will be unfair to immigrants of lesser means?

**Answer.** The fiscal year 2006 Budget includes \$1.854 billion for USCIS (\$80 million appropriated; \$1.774 billion fees), an overall increase of \$79 million, or 4 percent over the fiscal year 2005 level. The fiscal year 2006 Budget is the final year of the President's 5-year plan to achieve a 6-month cycle time standard for all immigration benefit applications, including a total of \$100 million to support backlog elimination efforts as well as improvements in application processing. This would bring the 5-year total for this aggressive initiative to \$560 million. Backlog elimination funds are reduced by a total of \$80 million, \$60 million associated with a one-time increase in the fiscal year 2005 USCIS budget, and \$20 million for Digitization efforts appropriated by the Congress, but not specifically requested in the President's budget. The fiscal year 2006 Budget will allow USCIS to eliminate the backlog by the end of fiscal year 2006.

USCIS is committed to meeting the President's backlog elimination goals. The key to processing temporary worker petitions quickly and efficiently is simplicity in the design. Establishing a program that involves a high degree of employer/government partnership, thorough background checks, and electronic registration and information sharing among participating Departments is critical. Based upon the legislation that Congress passes, USCIS will use fees to support applicant registration, processing and documentation.

While Federal guidelines require full cost recovery of services provided, USCIS does have the ability to waive fees on a case-by-case basis. Any applicant or petitioner who has an "inability to pay" the fees may request a fee waiver. In determining "inability to pay," USCIS officers will consider all factors, circumstances, and evidence supplied by the applicant including age, disability, household income, and qualification within the past 180 days for a Federal means-tested benefit.

#### SUBCOMMITTEE RECESS

Senator COCHRAN. We are going to continue to review the budget request for fiscal year 2006 for the Department of Homeland Security. Our next hearing will be on Wednesday, March 9, in Room 124 of the Dirksen Senate Office Building. At that time the Under Secretary for Emergency Preparedness and Response, Mr. Michael Brown, and the Acting Director of the Office of State and Local Government Coordination and Preparedness, Mr. Matt Meyer, will be here to discuss the budget request for the programs under their jurisdictions.

Until then, the subcommittee stands in recess.

[Whereupon, at 12:23 p.m., Wednesday, March 2, the subcommittee was recessed, to reconvene subject to the call of the Chair.]